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Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
 )  
National Association of State Utility Consumer ) CG Docket No. 04-208  
Advocates (NASUCA) Petition for Declaratory )  
Ruling Regarding Truth-In-Billing and Billing )  
Format )

To: The Commission

**OPPOSITION TO PETITION**

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## SUMMARY

The National Association of State Utility Consumer Advocates (“NASUCA”) requests that the Commission prohibit the use of monthly line item charges by CMRS carriers for the recovery of regulatory compliance costs. NASUCA claims that such line item charges violate the *Truth-in-Billing* (“TIB”) Order and Sections 201 and 202 of the Communications Act of 1934, as amended, because they are inherently misleading and deceptive. NASUCA also alleges that the surcharges assessed by CMRS carriers are unauthorized, excessive, and bear no demonstrable relationship to the costs incurred.

NASUCA’s petition should be denied. The Commission already has considered and denied the requested relief. The Commission squarely rejected NASUCA’s claim that line item charges to recover regulatory costs “are inherently deceptive, misleading, and unreasonable” when it approved the use of such charges in the *TIB Order*. The Commission affirmed this decision in the *Contribution Order*. The balance struck by the Commission gives consumers access to accurate and truthful information, while giving carriers the authority to recover their regulatory costs in any lawful manner, which includes line item charges. NASUCA fails to provide any evidence or policy reason, not previously addressed by the Commission, to overturn this decision. Thus, NASUCA’s petition amounts to (i) an untimely filed petition for reconsideration of these decisions; (ii) an improperly filed petition for rulemaking to change the billing requirements; or (iii) an improperly filed Section 208 complaint challenging the reasonableness of CMRS charges, and should be denied.

The Commission’s balanced approach remains fundamentally sound. The commercial relationship between a business and its customers is the cornerstone of free enterprise. In a competitive marketplace, like the CMRS industry, rate regulation is entirely inappropriate. CMRS carriers must have the flexibility to respond to regulatory requirements through line item charges. Without these charges, carriers may not be able to offer nationwide one-rate plans to consumers under long-term service agreements. These standardized rate plans are dependent on a carriers’ ability to recoup the costs of regulatory compliance that vary depending on a variety of factors, such as the geographic area. Without surcharges, carriers are forced to either (i) rely solely on estimates for future regulatory costs; or (ii) deviate from national and regional to localized plans to account for the variable costs. Localized plans will lead to operating inefficiencies and will result in higher costs and/or reduced service offerings for consumers. Moreover, line item charges allow carriers to exercise their constitutional right to inform consumers about the cause of these costs.

Cingular stands by its practices. Cingular follows the Cellular Telecommunications & Internet Association’s Consumer Code for Wireless Service and provides consumers with full, accurate, and non-misleading information on additional charges throughout all phases of the business relationship. Cingular’s Regulatory Cost Recovery Fee, which ranges “up to” \$1.25 to help defray the costs of regulatory compliance, is not excessive. Quite the opposite, Cingular’s charges are well below the monthly costs per customer for local number portability, number pooling, and Enhanced-911 that the Progress & Freedom Foundation estimated to be at \$2.38. NASUCA’s allegations are undoubtedly intended to alarm the Commission so that the agency will engage in a “fishing expedition” of the wireless industry’s billing practices. NASUCA provides *no* evidence, however, that CMRS carriers have acted improperly. Accordingly, further

review by the Commission is unjustified and also unnecessary to protect consumers who remain adequately protected by the TIB principles and the Section 208 complaint process.

Nevertheless, if the Commission finds that the varying labels, descriptions, and disparate amounts charged by carriers might confuse consumers, it should conclude its pending proceeding on the use of standardized labels. The Commission should not, however, abridge the constitutional rights of carriers by eliminating the use of line item charges when the less restrictive option of standardized labels is available.



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**OPPOSITION TO PETITION**

Cingular Wireless LLC (“Cingular”), by its attorneys, hereby opposes the petition for declaratory ruling filed by the National Association of State Utility Consumer Advocates (“NASUCA”).<sup>1</sup> NASUCA takes issue with the monthly line item charges assessed by carriers on end users for the recovery of regulatory compliance costs and requests that the Commission declare such practices to be in violation of the *Truth-in-Billing* (“TIB”) Order and Sections 201 and 202 of the Communications Act of 1934, as amended (the “Act”).<sup>2</sup> As discussed below, NASUCA’s petition should be denied.

After carefully balancing the interests of carriers and consumers in the *TIB Order*, the Commission held that CMRS carriers can recover regulatory costs through line item charges provided that the charges comply with the TIB principles.<sup>3</sup> The Commission’s decision is fundamentally sound because it provides (i) carriers in a competitive industry the flexibility to ac-

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<sup>1</sup> *National Association of State Utility Consumer Advocates (NASUCA) Petition for Declaratory Ruling Regarding Truth-In-Billing and Billing Format*, CG Docket No. 04-208, *Public Notice*, DA 04-1495 (rel. May 25, 2004).

<sup>2</sup> *National Association of State Utility Consumer Advocates’ Petition for Declaratory Ruling Regarding Monthly Line Items and Surcharges Imposed by Telecommunications Carriers*, CC Docket No. 98-170, *Petition for Declaratory Ruling* (Mar. 30, 2004) (“NASUCA Petition”) at 2; *Truth-In-Billing and Billing Format*, CC Docket No. 98-170, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 F.C.C.R. 7492 (1999) (“*TIB Order*” and “*TIB Further Notice*”); 47 U.S.C. §§ 201, 202.

<sup>3</sup> See *TIB Order*, 14 F.C.C.R. at 7496-97, 7526-27.

count for regulatory requirements when offering popular long-term, low-priced national one-rate plans; and (ii) appropriate safeguards for consumers. NASUCA fails to provide any evidence or policy reason, not previously addressed by the Commission in the *TIB Order*, to overturn this decision. NASUCA's petition amounts to an untimely filed petition for reconsideration of the Commission's *TIB Order* and related decisions or an improperly filed petition for rulemaking or Section 208 complaint and should be denied.<sup>4</sup> Cingular has acted faithfully to provide consumers with full, accurate, and non-misleading information on additional charges imposed for the recovery of regulatory costs. Cingular stands by its practices.

Nevertheless, if the Commission finds that the varying labels, descriptions, and disparate amounts charged by carriers might confuse consumers, it should conclude its pending proceeding on the use of standardized labels.<sup>5</sup> The Commission should not, however, abridge the constitutional rights of carriers by eliminating the use of line item charges when the less restrictive option of standardized labels is available.

## **I. THE COMMISSION HAS ALREADY ADDRESSED THE IMPOSITION OF REGULATORY COST RECOVERY FEES BY CMRS CARRIERS**

The NASUCA petition is a wholesale attack on the Commission's careful determinations regarding cost recovery and disclosure in the *TIB Order*,<sup>6</sup> the *Contribution Order* on the universal service fund ("USF"),<sup>7</sup> and the 3<sup>rd</sup> R&O on local number portability ("LNP").<sup>8</sup> In those pro-

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<sup>4</sup> See 47 C.F.R. §§ 1.401(c), 1.429(d); 47 U.S.C. § 208(a).

<sup>5</sup> See *TIB Further Notice*, 14 F.C.C.R. at 7535-37.

<sup>6</sup> See *TIB Order*, 14 F.C.C.R. at 7492.

<sup>7</sup> See *Federal State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order and Second Further Notice of Proposed Rulemaking*, 17 F.C.C.R. 24952 (2002), *on recon.*, 18 F.C.C.R. 4818 (2003) ("*Contribution Order*").

<sup>8</sup> See *Telephone Number Portability*, CC Docket No. 95-116, *Third Report and Order*, 13 F.C.C.R. 11701 (1998), *on recon.*, 17 F.C.C.R. 2578 (2002) ("*3<sup>rd</sup> R&O*" or "*Portability Order*").

ceedings, the Commission balanced the goals of implementing important regulatory initiatives, providing customers “with clear, well-organized, and non-misleading information so they can reap the advantages of competitive markets,” and providing CMRS carriers with the flexibility needed to satisfy their regulatory obligations “in widely divergent manners that best fit their own needs and those of their customers.”<sup>9</sup> Thus, in the TIB, USF, and LNP proceedings, the Commission authorized CMRS carriers to recover the cost of those programs in any lawful manner, including the use of line item charges, as they are incurred.<sup>10</sup>

The Commission already has considered and denied the relief sought by NASUCA. The Commission squarely rejected NASUCA’s claim that line item charges to recover regulatory costs “are inherently deceptive, misleading, and unreasonable”<sup>11</sup> when it approved the use of such line item charges in the *TIB Order*.<sup>12</sup> The Commission affirmed this practice in the *Contribution Order*.<sup>13</sup>

The Commission adopted its TIB principles in furtherance of the Section 201(b) mandate regarding just and reasonable charges.<sup>14</sup> The TIB principles require “full and non-misleading descriptions” and extend “to carrier charges purportedly associated with federal regulatory action.”<sup>15</sup> On the use of line item charges to recover regulatory costs, the Commission specifically stated that:

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<sup>9</sup> *TIB Order*, 14 F.C.C.R. at 7498-99, 7501; *see also Contribution Order*, 17 F.C.C.R. at 24979-80; *3<sup>rd</sup> R&O*, 13 F.C.C.R. at 11774-75.

<sup>10</sup> *See TIB Order*, 14 F.C.C.R. at 7526-27; *Contribution Order*, 17 F.C.C.R. at 24979-80; *3<sup>rd</sup> R&O*, 13 F.C.C.R. at 11774-75.

<sup>11</sup> NASUCA Petition at 38.

<sup>12</sup> *See TIB Order*, 14 F.C.C.R. at 7526-27.

<sup>13</sup> *See Contribution Order*, 17 F.C.C.R. at 24979-80.

<sup>14</sup> *See TIB Order*, 14 F.C.C.R. at 7506.

<sup>15</sup> *Id.* at 7522-23.

We decline to take a more prescriptive approach as to how carriers may recover these costs. We recognize that several commenters assert that service providers should be required to combine all regulatory fees into one charge, or should be prohibited from separating out any fees resulting from regulatory action. Other commenters urge us to go even farther and require carriers to include on bills per-minute rates that include all fees associated with the service. We decline at this time to mandate such requirements, but rather prefer to afford carriers the freedom to respond to consumer and market forces individually, and consider whether to include these charges as part of their rates, or *to list the charges in separate line items*. We believe that so long as we ensure that consumers are readily able to understand and compare these charges, competition should ensure that they are recovered in an appropriate manner. Moreover, we are concerned that precluding a breakdown of line item charges would facilitate carriers' ability to bury costs in lump figures.<sup>16</sup>

Thus, the Commission struck "a reasonable balance between the needs of consumers for access to accurate and truthful information regarding these surcharges and any burden or cost that such requirements may impose on carriers."<sup>17</sup>

The Commission subsequently affirmed this approach in the *Contribution Order*. There, the Commission recognized that carriers do incur administrative compliance costs in addition to the contributions submitted for universal service.<sup>18</sup> Accordingly, the Commission upheld a CMRS carriers' ability to recover these costs through line item charges, stating that "CMRS providers . . . will have the same flexibility that exists today to recover legitimate administrative and other related costs . . . through these carriers' rates *or through other line items*."<sup>19</sup> Similarly, the Commission affirmed this ability in its portability proceedings in stating that:

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<sup>16</sup> *Id.* at 7526-27 (emphasis added) (footnotes omitted).

<sup>17</sup> *Id.* at 7530. NASUCA's claim that the Commission inadvertently created a loophole is erroneous. See NASUCA Petition at 59-60.

<sup>18</sup> See *Contribution Order*, 17 F.C.C.R. at 24979-80.

<sup>19</sup> *Id.* at 24980 (emphasis added). These surcharges are separate and apart from the USF contribution recovery charge.

[c]reating an optional end-user charge for incumbent LECs ensures that such carriers have a reasonable opportunity to recover their costs and at the same time allows carriers to forego some or all of such charges if they deem it necessary to compete in the local service market. Similarly, unregulated carriers may recover their costs in end-user charges if they choose to do so.<sup>20</sup>

The Commission's decision to give CMRS carriers' flexibility to recover their costs remains fundamentally sound. The commercial relationship between a business and its customers is the cornerstone of free enterprise. The Commission has justifiably treaded lightly before interfering with this relationship especially in a competitive marketplace. The Commission has repeatedly found after a careful analysis that effective competition exists in the CMRS industry and has expressed a "general preference that the CMRS industry be governed by the competitive forces of the marketplace, rather than by governmental regulation."<sup>21</sup> Government involvement in the regulation of rates for a competitive industry is entirely inappropriate. NASUCA also provides no justification to overturn the Commission's prior determination to permit carriers to recover regulatory costs via line item charges.

Line item charges serve a practical purpose by giving carriers the flexibility to address uncertain and ever changing costs of regulatory compliance. For example, the ongoing costs of local number portability will fluctuate based on the number of porting requests processed and database queries performed in a given period. Similarly, the costs of Enhanced-911 ("E911") depend on the number of requests received from Public Safety Answering Points ("PSAPs") in a given area of the country. Regulatory costs also depend on (i) state and local obligations, such

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<sup>20</sup> 3<sup>rd</sup> R&O, 13 F.C.C.R. at 11775.

<sup>21</sup> See *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, WT Docket No. 02-379, *Eighth Report*, 18 F.C.C.R. 14783 (2003) ("*Eighth Report*"); *Kiefer v. Paging Network, Inc.*, File No. EB-00-TC-F-002, *Memorandum Opinion and Order*, 16 F.C.C.R. 19129, 19131 (2001); *Southwestern Bell Mobile Systems, Inc.*, *Memorandum Opinion and Order*, 14 F.C.C.R. 19898, 19902 (1999) (quoting petitioner).

as gross receipts taxes, that vary by jurisdiction; (ii) a contribution factor for universal service that is updated quarterly; and (iii) the evolving subscriber base upon which these costs are apportioned. Moreover, the Commission continues to place additional regulatory burdens on the competitive CMRS industry that increase the costs of compliance.<sup>22</sup>

The uncertainty of variable regulatory costs could stifle the offering of uniform national one-rate plans if CMRS carriers are prohibited from using line items to recoup the costs. Consumers now enjoy low standardized monthly rates that include nationwide service and buckets of minutes from service activation to termination, which could be for many years. If carriers were required to include *all* charges in the rates, then carriers would be forced to set rates sufficiently high to recover the estimated costs of future mandates. These estimates cannot conceivably account for the regulatory costs that will vary by geographic area. Alternatively, carriers could offer localized rate plans, but this would result in a patchwork of billing practices, even within states. Other inefficiencies include increased advertising costs as carriers will need to advertise rates locally instead of relying on nationwide or regional advertising campaigns. Finally, if charges were consolidated into per-minute or monthly rates, then promotional material (nationally, regionally, or locally) would need to be updated more frequently because rates would be changing more frequently. The increased costs for these inefficiencies would ultimately be passed on to consumers in higher rates and/or reduced service offerings.

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<sup>22</sup> See *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, *Notice of Proposed Rulemaking*, 19 F.C.C.R. 3373 (2004) (proposing mandatory system outage reporting); *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket No. 04-73, *Report and Order*, FCC 04-146 at ¶¶ 45-51 (rel. June 24, 2004) (adding two-step notification and review process for regulatory fee assessments).

Moreover, line item charges are consistent with a carrier's constitutional right to let consumers know the cause of these costs.<sup>23</sup> Certain costs incurred by carriers for implementing equipment changes and internal procedures directly result from the imposition of regulatory mandates. These costs are passed through to consumers in a competitive market. Not letting consumers know how much of their bill goes towards recovering these costs is misleading. By providing such information in a surcharge, the public can decide, for themselves, what regulatory obligations further their interest and hold the government accountable accordingly.

Finally, consumers are fully protected if a carrier does assess a surcharge in a deceptive or misleading manner. The Commission retains authority under Sections 201 and 202, which provide the "bedrock consumer protection obligations of a common carrier," to evaluate allegedly unjust or unreasonable charges on a case-by-case basis through the Section 208 complaint process.<sup>24</sup> This is an appropriate safeguard to protect the rights of consumers while allowing market forces to operate efficiently.<sup>25</sup>

The balance struck by the Commission is fundamentally sound for all of the reasons stated in the *TIB Order* and as discussed herein. NASUCA fails to provide any evidentiary or policy basis for disturbing this decision. NASUCA's petition amounts to (i) an untimely filed

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<sup>23</sup> See U.S. Const. amend. I; *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm.*, 447 U.S. 557, 561-62 (1980) ("Commercial expression not only serves the economic interest of the speaker, but also assists consumers and furthers the societal interest in the fullest possible dissemination of information."). In *Central Hudson*, the Supreme Court struck down a state ban on promotional advertising by a regulated entity and established a test to evaluate the legality of government restrictions on commercial speech: commercial speech that concerns a lawful activity and is not misleading or fraudulent may be restricted only if the government's interest in doing so is substantial, the restrictions directly advance the government's asserted interest, and the restrictions are no more extensive than necessary to serve that interest. *Id.* at 564; see also *Consolidated Edison Co. v. Public Serv. Comm.*, 447 U.S. 530, 536 (1980) (holding that "a constitutionally valid time, place and manner restriction may not be based upon either the content or the subject matter of speech").

<sup>24</sup> See *TIB Order*, 14 F.C.C.R. at 7528 (citation omitted); *Personal Communications Industry Assoc., Petition for Forbearance*, WT Docket No. 98-100, *Memorandum Opinion and Order*, 13 F.C.C.R. 16857, 16865 (1998) ("PCIA Petition").

<sup>25</sup> *PCIA Petition*, 13 F.C.C.R. at 16865-66 ("Consumers and carriers are protected by this complaint process.").

petition for reconsideration of these decisions; (ii) an improperly filed petition for rulemaking to change the billing requirements; or (iii) an improperly filed Section 208 complaint challenging the reasonableness of CMRS charges, and should be denied.<sup>26</sup>

## **II. CINGULAR HAS FAITHFULLY COMPLIED WITH THE *TIB* AND *CONTRIBUTION ORDERS***

Cingular has embraced the TIB principles and has gone above and beyond to communicate with customers and mitigate confusion. For Cingular to attract and retain subscribers, it must provide information in a simple, understandable, non-misleading, and non-deceptive manner. It simply makes “good business” sense.

The *TIB Order* adopted three principles: (1) that consumer telephone bills be clearly organized, clearly identify the service provider, and ensure that consumers receive thorough, accurate and understandable bills; (2) that bills contain full and non-misleading descriptions of the charges that appear therein; and (3) that bills conspicuously disclose information the consumer may need to inquire about, or contest, charges.<sup>27</sup> These broad principles apply to both wireline and wireless carriers alike.<sup>28</sup> The Commission also subjected CMRS carriers to three specific guidelines: (1) that the name of the service provider associated with each charge be clearly identified on the bill; (2) that each bill should prominently display a toll free telephone number that customers may call to inquire about or dispute any charge contained on the bills; and (3) that

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<sup>26</sup> Petitions for reconsideration must be filed within 30 days from the date of public notice of final action. See 47 C.F.R. § 1.429(d). The Commission cannot change its rules without first initiating a rulemaking proceeding providing parties an opportunity for notice and comment. 5 U.S.C. § 553. Parties seeking to issue or amend a rule must first file a petition for rulemaking that sets forth the text or substance of the proposed rule or amendment. 47 C.F.R. § 1.401(c). The Commission has stated that “[c]hallenges in the form of Section 208 formal complaints must comply with the Commission’s formal Section 208 complaint procedures.” See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petition of City of Richardson, Texas*, CC Docket No. 94-102, *Order on Reconsideration*, 17 F.C.C.R. 24282, 24287 n. 20 (2002) (citing 47 C.F.R. §§1.720-1.736).

<sup>27</sup> See *TIB Order*, 14 F.C.C.R. at 7496-97.

<sup>28</sup> *Id.* at 7496-97, 7501.



separate charges resulting from regulatory action be identified by standardized labels.<sup>29</sup> The Commission declined to apply any other guidelines to CMRS carriers, emphasizing instead that their billing practices remain subject to the requirements of Sections 201 and 202 of the Act.<sup>30</sup>

Although the Commission has not prescribed standardized labels for charges recovering the cost of regulatory initiatives, it has provided detailed guidance as to what sorts of labels and practices are required under Federal law. First, the Commission afforded carriers the freedom to respond to consumer and market forces individually and declined to require carriers to recover regulatory costs in per-minute rates.<sup>31</sup> Second, the Commission prohibited carriers from describing those fees as being “mandated” by the government or implying that it has no choice regarding whether or not such a charge must be included on the bill or the amount of the charge.<sup>32</sup> Third, the Commission reiterated that unreasonable charges are subject to challenge pursuant to section 201(b) of the Act but did not adopt specific rules as to the amount of line item charges or detailed breakdowns of a carrier’s costs.<sup>33</sup> Fourth, the Commission stated that carriers are not required to notify consumers periodically or provide additional explanation of any charges resulting from Federal regulatory action.<sup>34</sup>

Cingular complies with all of these requirements. Like many other wireless carriers, Cingular follows the Cellular Telecommunications & Internet Association (“CTIA”) Consumer Code for Wireless Service (“Consumer Code”). The Consumer Code defines ten customer

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<sup>29</sup> *Id.* at 7502.

<sup>30</sup> *Id.* at 7502-03.

<sup>31</sup> *Id.* at 7526-27. Indeed, the Commission noted that to “bury” these costs in base monthly access charges might itself be misleading. *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 7528-30.

<sup>34</sup> *Id.* at 7530.

policies that are founded on three principles that, not surprisingly, closely track the TIB principles: (i) provide consumers with information to help them make informed choices in selecting wireless service; (ii) help ensure that consumers understand their wireless service and rate plans; and (iii) continue to offer wireless services that meet consumers' needs. In particular, the Consumer Code requires that wireless carriers:

- make information available on whether taxes, fees or surcharges apply and the amount or range of any such fees or surcharges that are collected and retained by the carrier in collateral or other disclosures at the point of sale and on its web site or when advertising prices for wireless service or devices.
- separately identify carrier charges from taxes, fees and other charges collected by the carrier and remitted to state or local governments (cost recovery fees or charges cannot be labeled as taxes).
- provide customers on-line and on billing statements with a toll-free telephone number to access customer service.<sup>35</sup>

Based on its compliance with the Consumer Code, Cingular was the first nationwide carrier awarded the right to use CTIA's "Seal of Wireless Quality."

In compliance with the Consumer Code and the TIB principles, Cingular clearly informs consumers about its charges, including charges for the recovery of costs associated with regulatory compliance, in all phases of the business relationship. Contrary to NASUCA's assertions, Cingular does not hide information or use deceptive practices.<sup>36</sup> In consumer rate plan brochures available at Cingular's retail outlets, information on additional charges is clearly provided immediately under the rates for monthly access:

Cingular also imposes the following charges: a Regulatory Cost Recovery Fee of up to \$1.25 to help defray its costs incurred in

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<sup>35</sup> Cingular Wireless, *CTIA Consumer Code for Wireless Service*, at <[http://www.cingular.com/about/consumer\\_code](http://www.cingular.com/about/consumer_code)>.

<sup>36</sup> See NASUCA Petition at 11 n.21.

complying with obligations and charges imposed by State and Federal telecom regulations, a gross receipts surcharge, and State and Federal Universal Service Charges. The Regulatory Cost Recovery Fee is not a tax or government-required charge.<sup>37</sup>

The “Wireless Service Agreement” that is executed at the point of sale also includes the Regulatory Cost Recovery Fee label in (ALL CAPS and **bold**) in plain view on the front of the agreement above the customer’s signature. Following the label is a description similar to the one contained in Cingular’s rate plan brochures, which states that the fee can range up to \$1.25 and is used to defray Cingular’s costs for regulatory compliance. Cingular also provides this same type of disclosure of these fees in its print advertising if such advertising includes prices.

Cingular also is implementing a new program that will provide new customers across the nation with a Cingular Service Summary (“CSS”) at the point of sale. Cingular developed the CSS after a year of study involving consumer focus groups to determine “how best” to provide information on services and billing practices. The CSS is a four-page color document that contains, among other things, all of the key provisions of the customer’s service plan, an estimate of the first month’s bill, and an estimate of an ongoing bill.<sup>38</sup> The sample bills include estimates for the Regulatory Cost Recovery Fee and the Federal Universal Service Fund based on where the customer lives. These line items are clearly labeled on the sample bill in the section on “Credits, Adjustments & Other Charges” and are separate and apart from the section identifying taxes or governmentally mandated charges. Sales persons are also instructed to go over the CSS with the customer. The CSS now is available in all company-owned retail stores (as of June 15, 2004) and will be available in all exclusive and non-exclusive agent locations by August 15, 2004.

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<sup>37</sup> See Attachments (sample rate plan brochure).

<sup>38</sup> See Attachments (sample CSS).

When service is obtained over the phone or via the Internet, new customers will receive the CSS within 3-5 calendar days along with a Welcome Kit that also includes contract information, a rate plan brochure, and disclosure information on additional charges.<sup>39</sup>

Moreover, prior to imposing its Regulatory Cost Recovery Fee, Cingular provided the following notice in each affected customer's bill:

Beginning with your April [2004] bill, Cingular will impose a variable Monthly Regulatory Cost Recovery Fee between \$.32 and \$1.25 to help defray costs incurred in complying with obligations and charges imposed by State and Federal telecom regulation, including Telecommunications Relay Service Fund, wireless number pooling and portability, enhanced 911 services, and the federal regulatory fee. Costs may be incurred and charged prior to initiation of any of the respective services. To learn more, log on to [www.cingular.com/reg](http://www.cingular.com/reg) or call 1-866-246-4852.

Cingular's billing practices and consumer information are a model for the industry and show the benefit of allowing market forces to address the needs of consumers. Cingular's billing practices also comply with the Commission's TIB principles. Cingular's bills are clearly organized in a fashion that distinguishes between government-mandated charges and regulatory cost recovery fees. The bills contain full and non-misleading descriptions of the Regulatory Cost Recovery Fee in accordance with the Commission's guidelines applicable to regulatory charges. Cingular's bills also conspicuously disclose information that the consumer may need to inquire about, or contest, those charges.

### **III. CINGULAR'S REGULATORY COST RECOVERY FEE IS PROPER**

As shown above, line item charges for the recovery of regulatory costs do not violate any aspect of the *TIB*, *Contribution* or *Portability Orders*. NASUCA is thus left arguing that the

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<sup>39</sup> See Attachments (sample Welcome Kit).

charges are unjust and unreasonable under Sections 201 and 202 of the Act.<sup>40</sup> NASUCA alleges that the charges are unjust and unreasonable because (i) they are misleading; and (ii) they are excessive and bear no demonstrable relationship to the costs purportedly recovered.<sup>41</sup> Neither allegation withstands scrutiny.

#### **A. Cingular's Regulatory Cost Recovery Fee is Not Misleading**

NASUCA states that the surcharges are misleading because they mask the “true” cost of a carrier’s service and make comparison shopping difficult.<sup>42</sup> NASUCA alleges that carriers fail to include information on line item charges when advertising rates to win customers and that customers are unlikely to notice disclaimers on websites or billing statements.<sup>43</sup> NASUCA claims that the disclaimers are too vague or misleading to be understood.<sup>44</sup> Cingular disagrees.

According to the *TIB Order*, a charge will be considered misleading if: (i) it is described as “mandated” by the government when it is not; or (ii) the bill states or implies “that the carrier has no choice regarding whether or not such a charge must be included on the bill or the amount of the charge.”<sup>45</sup> Cingular makes neither of these claims. The joint policy statement issued by the Commission and the Federal Trade Commission on the advertising of dial-around services also is instructive:

[a] deceptive ad is one that contains a misrepresentation or omission that is likely to mislead consumers acting reasonably under

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<sup>40</sup> *Id.* at 44-45. Section 201(b) states that “[a]ll charges, practices, classifications, and regulations . . . shall be just and reasonable.” 47 U.S.C. § 201(b). Section 202(a) similarly provides “[i]t shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services.” 47 U.S.C. § 202(a).

<sup>41</sup> NASUCA Petition at 37-60.

<sup>42</sup> *Id.* at 37.

<sup>43</sup> *Id.* at 42.

<sup>44</sup> *Id.*

<sup>45</sup> *TIB Order*, 14 F.C.C.R. at 7527-28.

the circumstances about a material fact. Material facts are those that are important to a consumer's decision to buy or use a product. Information pertaining to the central characteristics of the product or service is presumed material. The cost of a product or service is an example of an attribute presumed material.<sup>46</sup>

Although not applicable to CMRS bills, the *Policy Statement* is consistent with the *TIB Order* because it encourages the use of clear and conspicuous disclosures. The *Policy Statement* suggests that disclosures use clear and unambiguous language, avoid small type, be placed close to the claim being qualified, and avoid inconsistent statements or distracting elements.<sup>47</sup> Cingular's line item disclosures comply with these principles. Moreover, the *TIB Order* expressly allowed carriers to include surcharges pursuant to Section 201(b) of the Act.<sup>48</sup> The Commission has thus previously found that such practices, as a general matter, are just and reasonable under the Act.

As mentioned above, Cingular has voluntarily adopted the Consumer Code, which requires Cingular – as a condition of using the “Seal of Wireless Quality” – to provide consumers with information on additional charges at the point of sale and when advertising wireless service. For example, in its rate plan brochures, Cingular conspicuously notes underneath the advertised monthly access rates that additional charges apply and includes the range for the Regulatory Cost Recovery Fee, “up to” \$1.25.<sup>49</sup> The disclosure clearly identifies the nature of the additional

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<sup>46</sup> *Joint FCC/FTC Policy Statement for the Advertising of Dial-Around and other Long-Distance Services to Consumers*, File No. 00-EB-TCD-1 (PS), *Policy Statement*, 15 F.C.C.R. 8654, 8655 (2000) (“*Policy Statement*”).

<sup>47</sup> See *Policy Statement*, 15 F.C.C.R. at 8662.

<sup>48</sup> See *TIB Order*, 14 F.C.C.R. at 7503-04, 7506, 7526-27 (“The principles and guidelines established in this Order are intended to define more specifically what would constitute a violation of section 201 in the billing context for the covered carriers.”).

<sup>49</sup> By specifying the maximum charge and by providing customers with estimated additional charges in the CSS and on the website, Cingular enhances the ability of consumers to comparison shop. NASUCA claims that Cingular's charges and disclosures are misleading because they fail to include a detailed breakdown of the carrier's costs used for calculating the regulatory cost recovery charge. See NASUCA Petition at 35. The Commission has advised against providing such detailed information, however, because the information may confuse consumers. See *TIB Order*, 14 F.C.C.R. at 7529-30 (stating that “long explanations of a carrier's cost calculations may add complexity to telephone bills, creating confusion that outweighs the benefits of providing such descriptions.”).

charges and states that the cost recovery fee is not a tax or government-required charge. The disclosure does not indicate that Cingular is obligated to assess these charges. This disclosure is also included in other promotional material, the Wireless Service Agreement, the Welcome Kit, and on Cingular's website and in its advertising.

Consumers are not buying a can of corn or a gallon of gasoline.<sup>50</sup> While consumers can now obtain prepaid mobile wireless service at the local 7-Eleven<sup>®</sup>, which is a testament to industry competition, most consumers enter into long-term service agreements and may expend a substantial sum of money for a wireless device.<sup>51</sup> With the wide array of available service plans and phones offered by multiple service providers in any given market, wireless customers typically research the options before making a decision. More thought is put into obtaining wireless service than your typical grocery store item. Wireless customers are thus more likely to read disclosures provided on promotional material than NASUCA credits. Moreover, consumers are generally aware that additional charges apply for telecommunications services because they routinely appear on cable, local phone, long distance, and wireless bills.<sup>52</sup>

Cingular stands by its practices. The disclosure of additional charges is provided in a clear and conspicuous manner to consumers and complies with the guidance given by the Commission. NASUCA's claim that Cingular does not disclose such information to consumers when advertising its rates is erroneous.

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<sup>50</sup> See, e.g., NASUCA Petition at 38 n.99 (comparing purchase of gasoline).

<sup>51</sup> Cingular's wireless devices range from \$0-519 (Cingular Wireless, *Phones and Accessories*, at <[www.cingular.com](http://www.cingular.com)>, "Phones & Accessories").

<sup>52</sup> In addition, the Commission provides the public with information on typical surcharges included on bills at its website, Federal Communications Commission, *Charges on Your Phone Bill*, at <[www.fcc.gov/cgb/consumerfacts/charges.html](http://www.fcc.gov/cgb/consumerfacts/charges.html)>.

## **B. Cingular's Regulatory Cost Recovery Fee is Not Excessive**

NASUCA also states that surcharges are unjust and unreasonable in violation of Section 202 of the Act.<sup>53</sup> This allegation takes two forms (i) that the charges recover more than the costs authorized by the Commission; and (ii) that wireless carriers, in general, should not be permitted to recover the costs of regulatory compliance that exceed “authorized” costs.<sup>54</sup> In particular, NASUCA challenges the costs recovered for complying with the Commission’s LNP, number pooling, E911, and the Communications Assistance for Law Enforcement Act (“CALEA”) programs.<sup>55</sup> These allegations do not withstand scrutiny.<sup>56</sup>

First, CMRS carriers are not subject to rate regulation and are authorized to recover their regulatory costs “in any lawful manner.”<sup>57</sup> This includes the assessment of surcharges to recover regulatory costs for LNP, number pooling, E911, CALEA, and other regulatory requirements so long as the surcharge complies with the TIB principles. NASUCA’s claim – that CMRS carriers

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<sup>53</sup> See NASUCA Petition at 44-45.

<sup>54</sup> See *id.*

<sup>55</sup> These allegations include (i) that LNP charges include marketing costs; (ii) that LNP charges include lobbying and litigation costs against the LNP initiative; (iii) that number pooling costs are *de minimis*; (iv) that the Federal government is obligated to pay for CALEA costs so carriers have nothing to recover; and (v) that there are only limited costs associated with E911. See NASUCA Petition at 45-46, 47, 52-53, 55, 57-58. Each of these allegations is false with regard to Cingular. NASUCA’s allegations are undoubtedly intended to alarm the Commission so that the agency will engage in a “fishing expedition” of the wireless industry. NASUCA provides *no* evidence, however, that CMRS carriers have acted improperly.

<sup>56</sup> Moreover, NASUCA’s reliance on Section 202 is misplaced. Section 202(a) makes it unlawful “for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities or services for or in connection with like communication service . . . .” 47 U.S.C. § 202(a). To establish a *prima facie* Section 202(a) claim, the claimant must show that a common carrier is offering “like” services to similarly situated consumers at disparate prices. See *Metrocall, Inc. v. WorldCom, Inc.*, Memorandum Opinion and Order, 15 F.C.C.R. 10826, 10830 (EB 2000). Once this threshold is met, a carrier “has the burden of persuasion to establish that . . . the disparity is not unjust or unreasonable. *Id.*” NASUCA does not allege that Cingular is treating consumers differently when recovering regulatory costs. NASUCA instead asserts that carriers (CMRS, interexchange carriers, and local exchange carriers (“LECs”)) are charging disparate amounts for costs related to the same regulatory programs. These regulatory compliance costs, however, are not even uniform across all carrier types or even among all CMRS carriers. Accordingly, NASUCA fails to establish a Section 202(a) claim against Cingular.

<sup>57</sup> See *TIB Order*, 14 F.C.C.R. at 7530; 3<sup>rd</sup> *R&O*, 13 F.C.C.R. at 11774, 11775; *Number Resource Optimization*, CC Docket No. 99-200, *Third Report and Order and Second Order on Reconsideration in CC Docket No. 99-200*, 17 F.C.C.R. 252, 264-65 (2001).



can only recover regulatory costs from end users through line item charges if specifically authorized by the Commission – lacks a legal basis and is contrary to the *TIB Order*. While CMRS carriers cannot describe a charge as “mandated” by the Commission or indicate that the carrier is obligated to assess the charge unless specifically authorized, CMRS carriers retain the freedom to recover regulatory costs “as part of their rates” or “in separate line items.”<sup>58</sup>

On the recovery of E911 costs in particular, NASUCA further claims that the Commission has limited CMRS carriers to only recovering such costs in their rates.<sup>59</sup> NASUCA misconstrues the Commission’s intent however. In the E911 proceeding, the Commission indicated that state cost recovery mechanisms are not the only way to recoup E911 costs. According to the Commission:

[a]lthough a number of States have decided that separate E911 cost recovery mechanisms are the best way to recover carriers’ costs of implementing E911, such mechanisms are not necessary to permit CMRS carriers, whose rates are not regulated, to recover their costs.<sup>60</sup>

The Commission went on to note that because the rates of CMRS carriers are deregulated, carriers could include E911 costs in their rates.<sup>61</sup>

NASUCA takes a literal reading of this language to act as a limitation. Surcharges, however, are part of a carrier’s rate structure for recovering its costs. As the Commission has recognized, “rates” include “rate structures.” For example, in the context of interpreting Section 332(c)(3)(A) of the Act, the Commission has found that the phrase “rates charged” may include

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<sup>58</sup> *TIB Order*, 14 F.C.C.R. at 7526-27.

<sup>59</sup> See NASUCA Petition at 58.

<sup>60</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Second Memorandum Opinion and Order*, 14 F.C.C.R. 20850, 20853 (1999) (“2<sup>nd</sup> MO&O”).

<sup>61</sup> See *id.* at 20872-73.

both rate levels and rate structures for CMRS and the states and local authorities are precluded from regulating either of these.<sup>62</sup> By indicating that carriers can recover E911 costs in their rates, the Commission's unmistakably intended to allow cost recovery through rates or rate structures that may include line item charges.<sup>63</sup> NASUCA's interpretation would subject CMRS carriers to a form of rate regulation for *only* E911 costs, which squarely contradicts the Commission's statement that CMRS rates are unregulated.

Second, Cingular's Regulatory Cost Recovery Fee is not excessive.<sup>64</sup> Cingular's fee, which ranges "up to" \$1.25, only recovers actual costs directly related to compliance. Cingular does not include marketing or lobbying costs in the cost recovery fee as NASUCA suggests.<sup>65</sup> Cingular also periodically reviews and adjusts the fee to prevent over-recovery.

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<sup>62</sup> See *Wireless Consumers Alliance, Inc.*, WT Docket No. 99-263, *Memorandum Opinion and Order*, 15 F.C.C.R. 17021, 17025-26 (2000) (noting that "states may not prescribe how much is charged for CMRS services or rate structures . . ."); *Southwestern Bell Mobile Systems, Memorandum Opinion & Order*, 14 F.C.C.R. 19898, 19901 (1999) ("Section 332(c)(3)(A) bars lawsuits challenging the reasonableness or lawfulness *per se* of the rates or rate structures of CMRS providers"); see also *Orloff v. FCC*, 352 F.3d 415, 419, 421 (D.C. Cir. 2003) ("In exempting CMRS providers from [tariffs] the Commission explained that 'market forces are generally sufficient to ensure the lawfulness of rate levels, rate structures, and terms and conditions of service set by carriers who lack market power.'" (quoting *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Servs.*, GN Docket No. 93-252, *Second Report and Order*, 9 F.C.C.R. 1411, 1478 (1994)).

<sup>63</sup> "If a State purported to prohibit carriers from recovering E911 costs in their rates, it could be engaging in rate regulation. Here, to the extent they are doing anything with respect to rates, States are permitting carriers to recover their costs in their *charges* to customers. This is the normal way that costs of doing business, including the costs of complying with government-imposed requirements, are recovered in an industry free of rate regulation." 2<sup>nd</sup> MO&O, 15 F.C.C.R. at 20875 (emphasis added).

<sup>64</sup> NASUCA does not take issue with Cingular's Federal Universal Service Fund fee, which is within the relevant contribution factor set by the Wireline Competition Bureau. See *Proposed Third Quarter 2004 Universal Service Contribution Factor*, CC Docket No. 96-45, *Public Notice*, DA 04-1613 (rel. June 7, 2004).

<sup>65</sup> See NASUCA Petition at 52-53. Contrary to NASUCA's allegations, the portion of Cingular's Regulatory Cost Recovery Fee that recovers LNP costs, recovers only the direct costs of providing the service. Cingular has taken great care to ensure that that portion of the Regulatory Cost Recovery Fee relating to LNP recovers only the costs of building the infrastructure required to provide number portability and the operational expenses required to provide the service. Although marketing and retention costs were identified in a previous Commission filing, as estimated costs, these indirect costs were identified and subtracted or deleted from the costs to be recovered from end users. See *Cingular and AT&T Wireless Services, Inc., Emergency Motion for Stay of the CMRS LNP Deadline*, CC Docket No. 95-116, Exhibit A (filed Aug. 15, 2003).

Compared to the estimated costs of compliance for the industry and the general estimated costs per wireless customer, Cingular's fee is quite reasonable. For example, the Progress & Freedom Foundation ("PFF") estimates the cost of compliance as follows:

- **LNP.** Estimated upfront costs exceed \$1.02 billion.<sup>66</sup> The estimated ongoing costs exceed \$2.8 billion for 2004 and \$2.4 billion for 2005 and beyond.<sup>67</sup> The estimated monthly cost per wireless customer over a 5-year period is \$1.60.<sup>68</sup>
- **Number Pooling.** Estimated upfront costs exceed \$400 million.<sup>69</sup> Ongoing costs for 2003, 2004, and 2005 are estimated at over \$340, \$151 and \$150 million, respectively.<sup>70</sup> The estimated monthly cost per wireless customer over a 5-year period is \$0.168.<sup>71</sup>
- **E911.** Upfront implementation costs estimated at \$1.5 billion.<sup>72</sup> Ongoing costs estimated at over \$1.25 billion and \$564 million for 2004 and 2005, respectively.<sup>73</sup> The estimated monthly cost per wireless customer over a 5-year period is \$0.614.<sup>74</sup> These estimates are separate and apart from the costs incurred by PSAPs and do not include the costs of providing TTY access.<sup>75</sup>

Cingular's Regulatory Cost Recovery Fee that ranges "up to" \$1.25 falls well below the monthly costs estimated by PFF for each wireless customer for LNP, number pooling, and E911 – collectively estimated at \$2.38.<sup>76</sup>

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<sup>66</sup> Thomas M. Lenard and Brent D. Mast, *Taxes and Regulation: The Effects of Mandates on Wireless Phone Users*, The Progress & Freedom Foundation, Progress on Point Release 10.18 at 14 (Oct. 2003) at <<http://www.pff.org/publications/communications/#2003>> ("PFF Report").

<sup>67</sup> PFF Report at 19, Table 5.

<sup>68</sup> PFF Report at 2.

<sup>69</sup> PFF Report at 24, Table 7.

<sup>70</sup> PFF Report at 25, Table 8.

<sup>71</sup> PFF Report at 2, Table ES1.

<sup>72</sup> See PFF Report at 38 (citing Hausman, Jerry A., *Efficiency Effects on the U.S. Economy from Wireless Taxation*, NATIONAL TAX JOURNAL 53: No. 3, part 2 (2002b): 733-742).

<sup>73</sup> *Id.*, Table 13.

<sup>74</sup> *Id.*

<sup>75</sup> PFF Report at 41-42.

<sup>76</sup> This is underscored by the fact that Cingular's Regulatory Cost Recovery Fee covers the costs of other programs in addition to LNP, number pooling, and E911. Cingular's Regulatory Cost Recovery Fee does not, however, re-

(continued on next page)

NASUCA's statements in support of its claim that cost recovery fees are excessive are also misleading. For example, NASUCA suggests that carriers should only have *de minimis* costs associated with number pooling.<sup>77</sup> NASUCA also claims that given the State recovery mechanisms, carriers should only have limited costs to recoup for E911.<sup>78</sup> As the PFF estimates illustrate, number pooling costs are anything but "tiny."<sup>79</sup> In addition, although most states have implemented cost recovery surcharges for E911 costs (40 or more as of November 2001),<sup>80</sup> only the State of Iowa dedicates 100 percent of their funds for reimbursing the costs of wireless carriers. Of the remaining states with programs, 6 provide no reimbursement whatsoever to wireless carriers; 14 only allocate a portion of the funds for wireless reimbursement (ranging from 12-60 percent); and 21 of the states provide an "undetermined" amount towards wireless reimbursement. Even for those states that do allocate funds to wireless carriers, the funds may be available for only certain types of E911 costs. Thus, while these programs may significantly help wireless carriers recover their costs, they do not provide full recovery. A variable line item charge is the fairest and most efficient way to account for these state-to-state differences.

In addition, NASUCA erroneously compares Cingular's Regulatory Cost Recovery Fee (assessed for the recovery of compliance costs related to multiple government programs) to the

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(footnote continued)

cover costs associated with CALEA or the North American Numbering Plan ("NANP"). See NASUCA Petition at 45, 54-57 (discussing recovery of CALEA and NANP costs). Cingular only partially recovers its CALEA costs directly from law enforcement agencies. See *Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, *Order on Remand*, 17 F.C.C.R. 6896, 6916-17 (2002) ("[C]arriers can recover at least a portion of their CALEA software and hardware costs by charging to LEAs, for each electronic surveillance order authorized by CALEA, a fee that includes recovery of capital costs, as well as recovery of the specific costs associated with each order.").

<sup>77</sup> See NASUCA Petition at 45-46.

<sup>78</sup> See *id.* at 58.

<sup>79</sup> *Id.* at 46.

<sup>80</sup> *Id.* at 58 (citing National Emergency Number Association, *State Wireless Funding Table – As of November 2001*, at <<http://www.nena.org/Wireless911/PDF/State%20Wireless%20Funding%2011-16-01.PDF>>).

costs of one particular program.<sup>81</sup> For example, NASUCA suggests that Cingular is overcharging because the Regulatory Cost Recovery Fee may range up to \$1.25, but according to the Center for Public Integrity, only \$0.28 is necessary to recover costs associated with LNP.<sup>82</sup> NASUCA makes a similar comparison when evaluating other CMRS carriers' cost recovery for number pooling.<sup>83</sup> These comparisons are misleading, however, and inappropriate.

NASUCA also compares the federally mandated LNP charges of incumbent LECs ("ILECs") against the charges of CMRS carriers and finds that CMRS charges are typically higher.<sup>84</sup> ILEC cost recovery, however, began in 1999 and is apportioned over a five year period as specifically directed by the Commission.<sup>85</sup> CMRS carriers, on the other hand, have only recently started recovering LNP costs. For example, Cingular only started recovering for LNP costs in April 2003 even though Cingular incurred costs as early as 1999.<sup>86</sup> Thus, at the outset, CMRS carriers may have proportionally more costs to recover to take into account the costs for the current year and prior years.

NASUCA also takes issue with the ability of CMRS carriers to assess LNP charges prior to the provision of LNP to consumers.<sup>87</sup> In particular, NASUCA points to the fact that when the Commission allowed ILECs to impose a mandated charge on end users, it set out certain guide-

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<sup>81</sup> *Id.* at 46, 52, 59.

<sup>82</sup> *Id.* at 52; M. Jindrich, *Prepaid Profit Plan for Wireless Companies*, Center for Public Integrity (Oct. 2003) (at <<http://www.openairwaves.org/telecom/report.aspx?aid=67>>).

<sup>83</sup> See NASUCA Petition at 46.

<sup>84</sup> *Id.* at 51.

<sup>85</sup> See 3<sup>rd</sup> R&O, 13 F.C.C.R. at 11776.

<sup>86</sup> Wireless carriers were required to route calls to wireline ported numbers in 1999. See 47 C.F.R. § 52.31(b).

<sup>87</sup> See NASUCA Petition at 49.

lines for the charge.<sup>88</sup> These requirements prohibited assessment of the charge on end users until they began to receive the direct benefits of LNP.<sup>89</sup> The requirements placed on the Federal charges imposed by ILECs, however, do not apply to CMRS surcharges. While NASUCA argues that these ILEC limitations “ought to be applied,” the simple fact is that they do not apply to CMRS providers. NASUCA’s request amounts to an untimely filed petition for reconsideration of the 3<sup>rd</sup> R&O.<sup>90</sup> Moreover, CMRS carriers often incur upfront costs for regulatory programs, like LNP, before consumers receive the direct benefits of the mandated services. CMRS carriers should be allowed to recover these costs when they are incurred.

#### **IV. THE COMMISSION CAN ADDRESS NASUCA’S CONCERNS IN THE *TIB FURTHER NOTICE***

In the TIB proceeding, the Commission focused on the surcharges included in the bills of CMRS carriers to recover regulatory costs associated with USF and LNP and expressed concern over the lack of uniform labels. Carriers were using similar (but different) labels for apparently the same costs and were charging disparate amounts.<sup>91</sup> The Commission found that this led to consumer confusion over whether the charges were federally mandated and agreed to adopt standardized labels based on the suggestions in the *TIB Further Notice*.<sup>92</sup> The Commission has yet to release an order in response to the *TIB Further Notice*.

Cingular believes that the labels and methods of disclosure it has employed comport fully with TIB principles and provide consumers with ample disclosure and information on which to base comparisons with other carriers’ charges. To the extent that the Commission shares

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<sup>88</sup> *Id.* at 48-49; 3<sup>rd</sup> R&O, 13 F.C.C.R. at 11776.

<sup>89</sup> *See* 3<sup>rd</sup> R&O, 13 F.C.C.R. at 11776-77.

<sup>90</sup> *See* NASUCA Petition at 49.

<sup>91</sup> *See TIB Order*, 14 F.C.C.R. at 7523-25.

<sup>92</sup> *Id.* at 7525-26; *see also id.*, dissent of Chairman Powell and Commissioner Furchgott-Roth.

NASUCA's concern that some labels used by carriers might confuse consumers, it can simply conclude the pending *TIB Further Notice* proceeding and adopt uniform labels for all carriers to utilize. The Commission must not, however, eliminate the use of line item charges as NASUCA requests. As the Supreme Court said, in *44 Liquormart*, when striking down a complete ban on the advertising of prices for alcohol:

bans that target truthful, nonmisleading commercial messages rarely protect consumers from such harms. Instead, such bans often serve only to obscure an "underlying government policy" that could be implemented without regulating speech. In this way, these commercial speech bans not only hinder consumer choice, but also impede debate over central issues of public policy.<sup>93</sup>

A less-restrictive alternative exists here, uniform labels. Any regulations adopted pursuant to the *TIB Further Notice* must be carefully crafted, however, to not unduly suppress truthful, non-misleading commercial speech.<sup>94</sup>

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<sup>93</sup> *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 502-03 (1996).

<sup>94</sup> *See id.*

## CONCLUSION

For the foregoing reasons, Cingular urges the Commission to deny NASUCA's petition. NASUCA seeks to overturn prior Commission rulings allowing for the lawful assessment of line item charges by CMRS carriers for the recovery of compliance costs, but provides *no* evidence or new policy reasons to justify such action. The petition amounts to either (i) an untimely filed petition for reconsideration of the *TIB Order*, *Contribution Order* and the 3<sup>rd</sup> *R&O*; (ii) an improperly filed petition for rulemaking; or (ii) an improperly filed Section 208 complaint, and should be denied. Cingular has acted within the letter and spirit of the law and stands by its practices.

Respectfully submitted,

**CINGULAR WIRELESS LLC**

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July 14, 2004



## **ATTACHMENTS**

## Smart Solutions

### Services to enhance your Cingular Plan:

See the Smart Solutions or product brochures, visit [cingular.com](http://cingular.com) or call 1-866-CINGULAR for more details.

<b>Roadside Assistance</b> After 60-day Trial	<b>FREE 60-day Trial!</b> \$2.99 per month
<b>Voice Connect™</b> After 30-day Trial	<b>FREE 30-day Trial!</b> \$4.99 per month

### Wireless Phone Insurance

**\$3.99 per month**  
(This insurance is provided to Cingular Wireless customers by Continental Casualty Company, a CNA Company, and administered by lockline, LLC. See brochure and/or coverage certificate for details.)

### Cingular 411 Directory Assistance

**\$1.29 per call**  
Your own personal concierge! Just dial 411 for movie listings, weather updates and more!  
(Airtime and applicable long distance charges apply. Local and national listings and information services are available.)

### FastForward™

**\$2.99 per month**  
Forward your calls and save your wireless minutes.  
(See FastForward brochure for details. Purchase of FastForward unit, feature activation and compatible handset required.)

### FamilyTalk®

Share all your Nationwide minutes!  
**\$9.99 per line, per month on plans starting at \$59.99**  
**\$19.99 per line, per month on plans \$39.99-\$49.99**

### \*NOW

\*NOW (+669) allows you to sign up for Wireless Phone Insurance, Roadside Assistance, Voice Connect™ and more. Just dial +669 from your Cingular Wireless phone.

## cingular MEdia<sup>SM</sup>

### Additional services to make the most of your phone:

See the MEdia brochure, visit [cingular.com](http://cingular.com) or call 1-866-CINGULAR for more details.

### Text and Instant Messaging

<b>pay per use</b>	<b>10¢ per message</b>
<b>100 messages</b>	<b>\$2.99 per month</b>
<b>750 messages</b>	<b>\$9.99 per month</b>

(Overage rate of 10¢ per message applies to 100 message package; overage rate of 3¢ per message applies to 750 message package.)

### Multimedia Messaging

<b>pay per use</b>	<b>25¢ per message</b>
<b>20 messages</b>	<b>\$2.99 per month</b>
<b>75 messages</b>	<b>\$9.99 per month</b>

(Overage rate of 25¢ per message applies to 20 message package; overage rate of 20¢ per message applies to 75 message package.)

### Wireless Internet Express†

(For browsing on your phone.)

<b>pay per use</b>	<b>1¢ per KB</b>
<b>500 KB</b>	<b>\$2.99 per month</b>
<b>2 MB</b>	<b>\$9.99 per month</b>

(Overage rate of 1¢ per kilobyte applies.)

### Also available using Wireless Internet Express:

<b>Ringtones and Graphics</b>	<b>as low as \$1.99</b>
<b>Downloadable Games</b>	<b>as low as \$1.99</b>
<b>Premium Applications and Content</b>	<b>prices vary</b>

## cingular MEdia<sup>SM</sup>

### Save a bundle on MEdia Packages.

#### Cingular MEdia Basic

**\$7.99 per month**

- Includes
- 250 Text Messages
  - 50 Multimedia Messages
  - 1 MB of Wireless Internet Express

(Overage rate of 10¢ per message applies to text messages. Overage rate of 25¢ per message applies to Multimedia Messages. Overage rate of 1¢ per kilobyte applies to Wireless Internet Express on MEdia Basic.)

#### Cingular MEdia Works

**\$19.99 per month**

- Includes
- 1500 Text Messages
  - 200 Multimedia Messages
  - Unlimited Wireless Internet Express on your phone

(Overage rate of 3¢ per message applies to text messages. Overage rate of 20¢ per message applies to Multimedia Messages.)

\*Compatible phone required. MEdia packages are not available on PDA devices. PDA devices are defined as those that run on Palm, PocketPC and Symbian operating systems. Additionally, MEdia plans are not available on RIM devices. Text Messaging, Wireless Internet Express and Multimedia Messaging service are automatically included on your rate plan for no monthly charge. Just pay as you use. You may remove these services at any time by contacting customer service by calling 611 from your wireless phone. There is a charge per message sent or received, whether read or unread, solicited or unsolicited. Text messages sent to international locations from the U.S. are 20¢ per message sent. Standard rates apply to incoming international text messages. Premium text messages are charged at stated rates. If you cancel the text messaging service, you will not be able to send and receive messages, but Cingular does not guarantee all incoming messages will be blocked. Text Messaging feature required for Wireless Internet Express. Wireless Internet Express usage for each billing record will be rounded up to the next kilobyte. In some cases our network will resend data packets to ensure complete delivery. You will be billed for these re-sent packets. The terms of Wireless Internet Express may be viewed at [www.wirelesswindow.com/terms](http://www.wirelesswindow.com/terms). Your use of Text Messaging, Wireless Internet Express or Multimedia Messaging service acknowledges your agreement to these terms. Other restrictions may apply. Games and ringtones are offered by independent providers.

†GPRS-capable phone required.

## Plan Terms

**Terms Applicable to Cingular Nation GSM Plans:** Cingular Wireless GSM dual-band handset required. Wireless service is subject to credit approval. An early termination fee of \$240 prorated over the length of the service agreement applies to subscriptions in the following states: FL, GA, SC, NC, AL, KY, TN, LA, MS, NY and parts of IN and NJ. A non-prorated \$150 early termination fee applies in all other areas. Independent agents may impose additional equipment-related charges. If phone is returned within 15 days in like-new condition with all components, early termination fee will be waived. All other charges apply. Minutes will be depleted according to usage in the following order: night and weekend minutes, mobile to mobile minutes, anytime minutes and rollover minutes. Cingular long distance is required. Airtime and other measured usage are billed in full-minute increments, and actual airtime and usage are rounded up to the next full increment at the end of each call for billing purposes. Cingular Wireless charges a full-minute increment of usage for every fraction of the last minute used on each wireless call. Calls placed on networks served by other carriers may take longer to be processed, and billing for these calls may be delayed. Those minutes will be applied against your anytime monthly minutes in the month in which the calls appear on your bill. Unanswered calls of 30 seconds or longer incur airtime. Final month's charges are not prorated. Prices are subject to change. \$36 Activation Fee for each new line. \$18 Activation Fee applies on each FamilyTalk line. Cingular does not guarantee availability of the network. Nights are 9:00 p.m. to 7:00 a.m. Weekends are 9:00 p.m. Friday to 7:00 a.m. Monday. Included long distance calls can be made from 50 U.S. States, Puerto Rico and U.S. Virgin Islands to 50 U.S. States, Puerto Rico, U.S. Virgin Islands, Guam and Northern Mariana Islands. Roaming charges do not apply when roaming in 50 U.S. States, Puerto Rico and U.S. Virgin Islands (if you go to Guam and Northern Mariana Islands, you are roaming). International long-distance rates vary. Cingular reserves the right to terminate your service if less than 50% of your usage over three consecutive billing cycles is on Cingular-owned systems. Customer must (1) use a Cingular GSM dual-band handset programmed with Cingular Wireless' preferred roaming database; (2) have a mailing address and live in the Home Area in which subscription is made. Your billing name may be displayed along with your wireless number on outbound calls to other wireless and land-line phones with Caller ID capability. Contact customer service for information on blocking the display of your name and number. In the event that the conditions of the Plan as described above are violated, Cingular may move subscriber to another calling plan or terminate customer's service. See Wireless Service Agreement for additional conditions and restrictions. **Rollover Minutes:** Rollover Minutes apply to Cingular Nation GSM Plans \$39.99 and higher. Unused anytime minutes expire: (1) after twelve months; (2) immediately upon default or if customer changes rate plans to a non-rollover plan. Rollover minutes are not redeemable for cash or credit and are not transferable. Minutes will not roll over until after the first month's billing. Night and Weekend and Mobile to Mobile Minutes do not roll over. **FamilyTalk** may require up to a two-year service agreement for each line. FamilyTalk plans include only package minutes included with the primary number, and minutes are shared by the additional lines. The rate shown for additional minutes applies to all minutes in excess of the anytime minutes. If the rate plan for the primary number is changed to an ineligible plan or the primary number is disconnected, one of the existing additional lines shall become the primary number on the rate plan previously subscribed to by the former primary number. **Mobile to Mobile Minutes** may be used when directly dialing or receiving calls from any other Cingular phone number from within your calling area. Largest unlimited calling area based on Cingular Mobile to Mobile area. **Voice Connect:** Regular airtime charges apply. Mobile to Mobile Minutes do not apply. Calls to 911, 411, 611, 711 and international dialing cannot be completed with Voice Connect Services. Caller ID cannot be blocked. Caller ID will be delivered on all calls, even if you have permanently blocked your name and number. Voice Connect Services provided by BeLocal. To terminate Voice Connect Services without incurring charges, dial 611 from your wireless phone within the 30-day trial period. Prices do not include taxes.

**Terms Applicable to Features:** Certain features will not be available in all areas at all times. See applicable brochure or visit [www.cingular.com](http://www.cingular.com) for terms applicable to features including Voicemail, Enhanced Voicemail, Roadside Assistance Service provided by Autison (see Roadside Assistance welcome letter and/or brochure for full terms and conditions), Wireless Phone Insurance (Program underwritten by Continental Casualty Company, a CNA Company (CNA), and administered by lockline, LLC. lockline, LLC is a licensed agent of CNA. For complete terms and conditions of Wireless Phone Insurance, please refer to the insurance coverage certificate or contact lockline† at 1-888-562-8662.), Text Messaging, Directory Assistance, FamilyTalk, Mobile to Mobile Calling, My Wireless Window† and Wireless Internet Express. Regular per-minute airtime rates and other charges apply for calls when included features are used. See [www.wirelesswindow.com/terms](http://www.wirelesswindow.com/terms) for terms applicable to Cingular DirectBill. Cingular and the graphic icon are Registered Trademarks of Cingular Wireless, LLC. Fits You Best is a Service Mark of Cingular Wireless, LLC. © 2004 Cingular Wireless, LLC. All rights reserved.



## Cingular Nation®

Calling Plans for GSM Dual-Band Handsets  
Washington DC/Baltimore

Largest  
**TALK  
FOR FREE**  
Calling Area in the U.S.



NCP BR T 0704 0214 E

7999

DCB



## Special Offers

**FamilyTalk®**  
add a line  
**\$9.99\*\***

per line, per month  
on calling plans  
starting at \$59.99.  
Add up to 3 additional lines

for a limited time

PLUS

**FREE**  
**Nationwide Calling**  
to over 24 million Cingular customers

On calling plans starting at \$39.99.  
One or two-year service agreement required.

PLUS

**FREE Nationwide**  
**Nights and Weekends**

On calling plans starting at \$49.99.

**Start your Night and**  
**Weekend minutes**  
**2 hours earlier!**

Nights start at 7 p.m. for only \$7 per month  
or \$14 per month on FamilyTalk plans.

Features-use charges apply. Certain other restrictions apply.

## MONTHLY ACCESS\*\*

Cingular Nation® GSM Plans	\$29.99	\$39.99	\$49.99	<b>GREAT VALUE!</b> \$59.99	\$79.99	\$99.99	\$149.99	\$199.99	\$249.99
Anytime Minutes	250	450 Rollover	600 Rollover	850 Rollover	1250 Rollover	2000 Rollover	3000 Rollover	4000 Rollover	6000 Rollover
Included Mobile to Mobile Minutes	—	<b>FREE</b> Nationwide Calling to Cingular Customers							
Included Night & Weekend Minutes	1000	5000	<b>FREE</b> Nationwide Night and Weekend Minutes						
Additional Minutes	45¢ per min	45¢ per min	40¢ per min	35¢ per min	30¢ per min	25¢ per min	15¢ per min	10¢ per min	7¢ per min

**INCLUDED FEATURES:** Nationwide Long Distance, Caller ID, Call Forwarding, 3-Way Calling, Call Waiting, Text Messaging (10¢ per message), Wireless Internet Express (1¢ per kilobyte), Voicemail and Detailed Billing.

\*\*Cingular also imposes the following charges: a Regulatory Cost Recovery Fee of up to \$1.25 to help defray its costs incurred in complying with obligations and charges imposed by State and Federal telecommunications regulations, a gross receipts surcharge, and State and Federal Universal Service Charges. The Regulatory Cost Recovery Fee is not a tax or government-required charge.

## International Calling

Need to call relatives in Brazil?  
Planning a business trip to  
London? Vacationing in Paris?  
Whether you need to call or travel  
overseas, Cingular Wireless  
International Services make it  
easy to stay in touch with friends,  
family and colleagues. Ask your  
sales rep or visit [www.cingular.com](http://www.cingular.com).

Certain restrictions and airtime  
charges apply.

My minutes  
roll over.  
Do yours?



**Rollover**  
your unused  
**Minutes™**  
from month to month to month

They're your minutes.  
Keep 'em.

Your unused Anytime Minutes roll over month after  
month on Cingular Nation Plans \$39.99 and higher.



**Exclusively from Cingular Wireless**

## No Roaming or Long Distance Charges. It's that Simple!

### CINGULAR NATION

No Roaming or Long Distance Charges Nationwide

#### Cingular Nation (with a GSM handset)

- Anytime, Mobile to Mobile and  
Night & Weekend Minutes apply

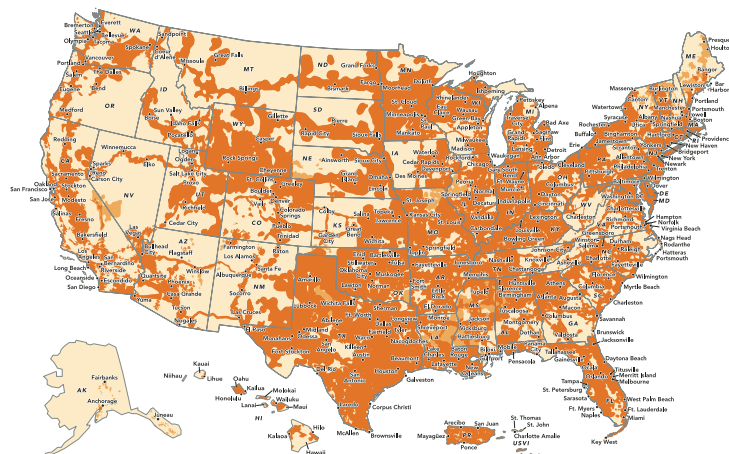
#### Future Coverage

- Estimated availability by Year End 2004

#### No Service Area

#### Cingular Wireless GSM handset required on Cingular Nation plans.

Your phone's display does not indicate the rate you will be charged. Please review your coverage map for areas included in and out of plan. Map depicts an approximation of outdoor coverage. Map may include areas served by unaffiliated carriers and may depict their licensed area rather than an approximation of the coverage there. Actual coverage area may differ substantially from map graphics, and coverage may be affected by such things as terrain, weather, foliage, buildings and other construction, signal strength, customer equipment and other factors. Cingular does not guarantee coverage. Charges will be based on the location of the site receiving and transmitting the call, not the location of the subscriber. Future Coverage, if depicted above, is based on current planning assumptions but is subject to change and may not be relied upon.



## How To Contact Us

**\*Services** - FREE account information at your  
fingertips 24/7. Check balance - dial \*BAL# (+225#),  
check minutes - dial \*MIN# (+646#), and pay your  
bill - dial \*PAY (+729), all from your Cingular phone.  
Remember to hit send!

See the \*Services brochure for more details.

**[www.cingular.com](http://www.cingular.com)**  
**1-866-CINGULAR (1-866-246-4852)**  
**or 1-800-331-0500**  
**for Cingular Customers**

For Deaf/hard of hearing customers: (TTY) 1-866-241-6567  
Questions on accessibility by persons with  
disabilities: 1-866-241-6568

## Cingular Service Summary

### MY INFO

**Wireless Phone Number:** 415-555-1212

**Account Number:** 548976

**Activation Date:** 6/22/04

**Term of Service:** 2 years

**Activation Charge:** \$36.00

**Deposit Requirement:** None

**Monthly Service Charge:** \$49.99

Additional charges apply. See below.

**Start of Billing Cycle:** 18th of each month

**Regular Minutes:** 600 (Anytime and Daytime)

**Additional Minute Charge:** 40¢

**Bonus Minutes:** Unlimited (Nights and Weekends)

### MY PHONE

suggested retail price \$109.99

My new Nokia 3595 allows me to send and receive text messages, browse the worldwide web, and download polyphonic ringtones from [www.cingular.com](http://www.cingular.com).

### PLAN DETAILS

CINGULAR NATION GSM

#### My Features Include:

NATIONWIDE LONG DISTANCE	INCLUDED
CALL FORWARDING	INCLUDED
3-WAY CALLING	INCLUDED
UNLIMITED MOBILE TO MOBILE MINUTES	INCLUDED
ROADSIDE ASSISTANCE	\$2.99/month
HANDSET INSURANCE	\$2.99/month
EARLY EVENINGS	\$7.00/month

### OTHER IMPORTANT INFO

- 411 Calls - \$1.29 per call plus airtime.
- Airtime minutes apply for calls made to toll-free numbers (800, 866), incoming calls, outgoing calls, voicemail retrieval, and long-distance calls.
- Text Messaging fees when not on Text Messaging Plan -10¢ on messages sent and received.
- Service Cancellation Policy- cancel your service within 15 days from date of purchase. No early termination fee will be charged.
- Early Termination Fee - In FL, GA, SC, NC, KY, TN, MS, LA, AL, NY, and parts of IN and NJ, an Early Termination Fee in the amount of \$240 prorated over the term of your commitment may be assessed against you in the event that you terminate this contract before the expiration of its term. In all other areas, an Early Termination Fee of \$150 may be assessed against you in the event that you terminate this contract before the expiration of its term.

### KEEP ME INFORMED

- ☐ Yes, I have provided my e-mail address. Please send me the latest offers from Cingular, as well as news and updates on my plan and services.  
(Cingular does not sell, trade or otherwise transfer e-mail addresses.)

### SALES STAFF INFO

Cingular Salesperson: JOHN SMITH  
Store Manager: JIM BROWN  
Store Address: 123 Main Street  
Suite 2  
Store Phone Number: 415-555-1212

Questions? Contact us at  
**1-866-CINGULAR**  
or dial 611 free from your Cingular phone.  
You could also visit us at:  
**[www.cingular.com](http://www.cingular.com)**  
for information about your new service,  
or to learn to manage your account online.



PLEASE RETAIN FOR YOUR RECORDS

Page 1

## Cingular Service Summary

### WHAT'S WHAT

- \* **SERVICES** allow you to easily access your account information from your phone.
- FREE 24 hours a day, 7 days a week.
  - Pay your bill – Dial \*PAY (\*729), press SEND, and listen to the automated system to pay.

Dial a few numbers, and a text message will be sent to your phone:

- Check your outstanding balance - Dial \*BAL# (\*225#) then press SEND.
- Check your minutes - Dial \*MIN# (\*646#) then press SEND.

- AUTO PAY** – Save time and money. Pay your bill automatically by checking account or credit card. It's free.
- Debited from your account each month.
  - Receive a statement.
  - Set up online [www.cingular.com](http://www.cingular.com) or call 1-800-331-0500.

**PAPERLESS BILLING** – Save time and gain access to your bill sooner by changing your monthly bill to paperless. Go online at [www.cingular.com](http://www.cingular.com). Within *My Profile* section, select Edit under Suppress Paper Bill.

- MANAGE MY ACCOUNT** – Personalized information on your account via [www.cingular.com](http://www.cingular.com) or 1-800-331-0500.
- |                             |                             |
|-----------------------------|-----------------------------|
| • Review rate plan          | • View current minutes used |
| • Add/remove phone features | • Pay bill online           |
| • View bill online          | • Set up Auto Pay           |
| • Explanation of your bill  | • Change address            |

- CHANGE MY CALLING PLAN** – Change your calling plan at any time (may require a new Service Agreement).
- Call 1-800-331-0500, go online [www.cingular.com](http://www.cingular.com), or visit your nearest Cingular Wireless store.

- NATIONWIDE LONG DISTANCE** – Calls can be made to anywhere in the 50 states when made from your Calling Plan Area.
- Rates for international long-distance calls vary and are not included in the plan.

**ROLLOVER MINUTES** – Unused Anytime Minutes at the end of each month.

- Minutes will roll over for 12 months.
- Oldest Rollover Minutes will always be used first to ensure all new Rollover Minutes have a full 12 months before expiring.
- Rollover Minutes will appear on your next month's bill.
- Rollover Minutes will not accrue until you begin your first full-month's billing cycle (generally 30 days).
- Minutes are not redeemable for cash or credit and are not transferable.
- Minutes expire if you change to a non-Rollover plan.

**UNLIMITED MOBILE TO MOBILE MINUTES** – Calls to and from other local Cingular customers in your mobile to mobile calling area (exceptions may apply).

- Mobile to Mobile Minutes do not roll over.

- ROADSIDE ASSISTANCE** – 24-hour assistance that facilitates fast, efficient service from a qualified professional.
- Towing Service
  - Battery Service/Jump Start
  - Flat Tire Assistance
  - Fuel Delivery Service (up to three gallons)
  - Lock-out Assistance
  - Key Replacement
  - Dial #HELP (#4357) from your cell phone for assistance

**WIRELESS PHONE INSURANCE** – Replace or repair your wireless phone at minimal cost (offered by lock/line to Cingular Wireless customers).

- Covers theft, loss and damage (exceptions may apply).

- EARLY EVENINGS** – Night and Weekend Minutes will begin at 7 pm instead of 9 pm.
- Night minutes are 7pm through 7am.
  - Weekends are 7pm Friday through 7am Monday.

PLEASE RETAIN FOR YOUR RECORDS

Page 2

## Cingular Service Summary

### MY FIRST BILL

It may be a little higher than you expected, but don't worry. First bills often include not only your regular monthly rate (billed one month in advance), but taxes, an activation charge, a pro-rated amount for the days left in the month when you signed up, plus minutes used beyond plan minutes. Also, your monthly Rollover Minutes<sup>SM</sup> start after the first full-month's billing. Below is an example of charges that will appear only on your first bill, as well as taxes and other charges that will appear on your first as well as subsequent bills.

*The estimates below are based on the highest tax/fee/surcharge rates assessed in your state; your actual taxes/fees/surcharges may be less.*

Wireless Summary For:		415-555-1212
User Name: John Doe		
Monthly Service Charges	First Bill	Ongoing Monthly Bill
Rate Plan		
CINGULAR NATION 600	49.99	49.99
CINGULAR NATION 600 (partial monthly charges)	6.67	
Optional Services		
XXXXXXX	0.00	0.00
XXXXXXX	0.00	0.00
XXXXXXX	0.00	0.00
XXXXXXX	0.00	0.00
Text Messaging	0.00	0.00
Cingular DirectBill	0.00	0.00
Roaming Airtime \$.69	0.00	0.00
Total Monthly Service Charge	\$56.66	\$49.99
Usage Charges		
Additional Minute Charge		BASED ON ACTUAL USAGE
Roaming Charge		
Directory Assistance		
Long-Distance Charge		
Credits, Adjustments & Other Charges		
Activation Charge	36.00	0.00
Regulatory Cost Recovery Fee	1.25	1.25
Federal Universal Service Fund	1.43	1.26
State Universal Service Fund	0.00	0.00
State Gross Receipts Surcharge	2.46	2.17
Total Credits, Adjustments & Other Charges	\$41.14	\$4.68
Taxes		
Federal Excise Tax	1.70	1.50
State and Local Tax	6.23	5.50
911 Fee	1.75	1.75
Total Taxes	\$9.68	\$8.75
Total Charges For: 415-555-1212	\$107.48	\$63.42

PLEASE RETAIN FOR YOUR RECORDS

Page 3

Cingular also imposes the following charges: a Regulatory Cost Recovery Fee of up to \$1.25 to help defray its costs incurred in complying with obligations and charges imposed by State and Federal telecom regulation, a gross receipts surcharge, and State and Federal Universal Service charges. The Regulatory Cost Recovery Fee is not a tax or a government required charge.



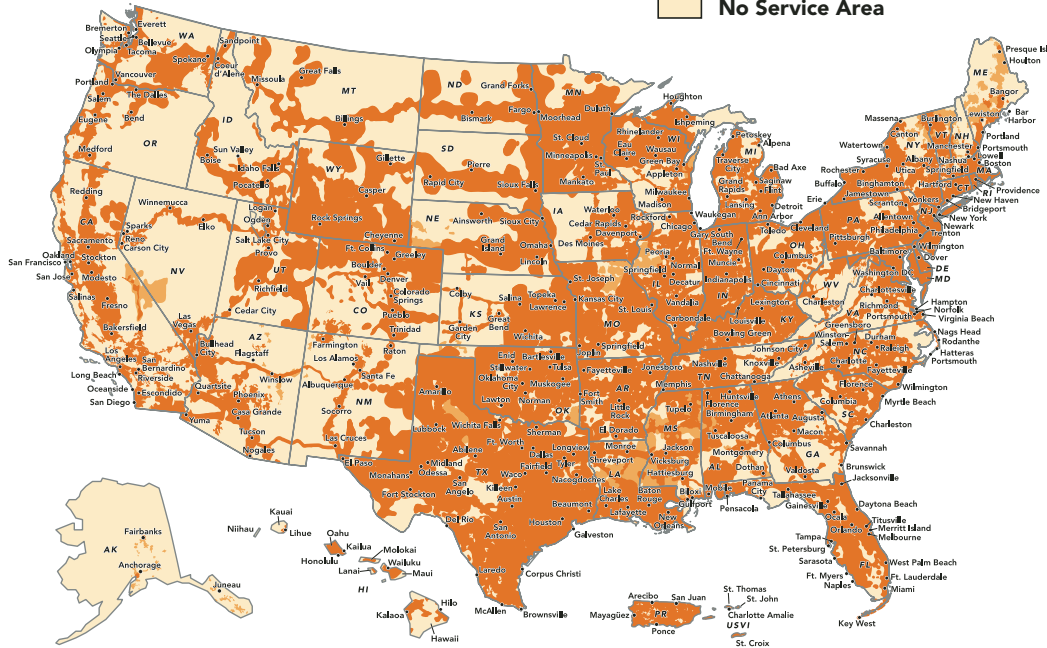
## Cingular Service Summary

### MY CALLING AREA

### CINGULAR NATION

No Roaming or Long Distance Charges Nationwide

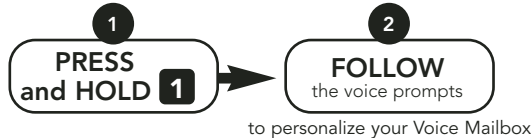
- Cingular Nation (with a GSM handset)**
  - Anytime, Mobile to Mobile and Night & Weekend Minutes apply
- Future Coverage**
  - Estimated availability by Year End 2004
- No Service Area**



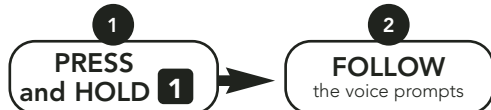
Your phone's display does not indicate the rate you will be charged. Please review your coverage map for areas included in and out of plan. Map depicts an approximation of outdoor coverage. Map may include areas served by unaffiliated carriers and may depict their licensed area rather than an approximation of the coverage there. Actual coverage area may differ substantially from map graphics, and coverage may be affected by such things as terrain, weather, foliage, buildings and other construction, signal strength, customer equipment and other factors. Cingular does not guarantee coverage. Charges will be based on the location of the site receiving and transmitting the call, not the location of the subscriber. Future Coverage, if depicted above, is based on current planning assumptions but is subject to change and may not be relied upon.

### VOICEMAIL INSTRUCTIONS\*

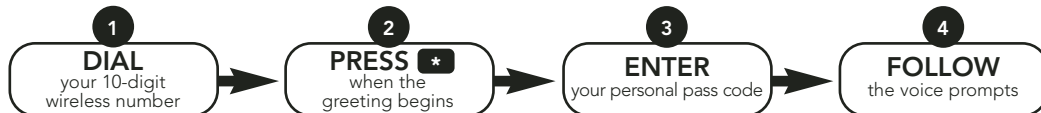
#### Setting Up Your Voice Mailbox From Your Mobile Phone



#### Checking Your Voicemail Message From Your Mobile Phone



#### Checking Your Voicemail Messages From Any Phone Other Than Your Mobile Phone



**While Roaming:** Press and hold the 1 key and follow the voice prompts to access your Voicemail.

\*Additional information or questions concerning Voicemail may be directed towards Customer Service at 611 (press Voicemail option), a FREE call from your wireless phone, or call 1-866-CINGULAR (1-866-246-4852).

PLEASE RETAIN FOR YOUR RECORDS



## Welcome Jack Cingular

This Welcome Kit includes everything you need to get started using your new wireless service and to get acquainted with your calling plan and calling features.



# Welcome Kit

This Welcome Kit has been custom-prepared for you,  
Jack Cingular

## Welcome to Cingular Wireless

On behalf of all Cingular employees dedicated to making sure "Cingular Fits You Best", thank you for choosing Cingular Wireless as your service provider. You will be receiving, or may have already received, the state-of-the-art wireless phone you selected. Enclosed in this Welcome Kit is some very helpful information. To track the status of your shipment, go to [www.Cingular.com](http://www.Cingular.com).

### Inside this Document:

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#### STEP 1

Review the details of your Calling Plan, Features and General Information as this section will help you get acquainted with your service.

#### STEP 2

Review the **Wireless Service Agreement** and **Rate Plan Terms & Conditions**.

#### STEP 3

Installing/Verifying SmartChip installation: Verify that the SmartChip is installed. If the SmartChip has been installed, move to Step 4. (Instructions for installing the SmartChip may be found on the last page).

#### STEP 4

Charging Your Battery - Charge your phone for 8 hours before placing any calls. Please ensure your phone is "Powered Off" before proceeding to the next step.

#### STEP 5

Accepting Terms & Conditions - To accept the terms of service, you need the following: Your wireless phone number ((404) 555-1212), Billing Zip Code (12345), and your SSN or Tax ID. **Call 1-866-895-1099 from any telephone other than your new wireless handset, and follow the instructions provided to activate your wireless phone.** Once you have completed this process, wait 20 minutes and turn your phone on. (NOTE: If you do not call within 30 days to accept the Terms & Conditions, your account will automatically be charged the full retail price of the phone).

#### STEP 6

Included in this Welcome Kit you will find:

- Details about your Calling Plan, Features & Equipment
- Additional Services Available
- Coverage Map(s)
- Understanding Your First Bill
- Voice Mail Instructions
- Rate Plan Terms & Conditions
- Promotional Offers (if applicable)
- Wireless Service Agreement (Your copy)
- Return Policy
- SmartChip Installation/Verification

# The Calling Plan That Fits You Best, Jack Cingular

## MY INFO

Wireless Phone Number (404) 555-1212

Activation Date 04/30/2004

Shipping & Handling \$0.00

Term of Service 2 Years

Activation Charge \$18.00

Monthly Service Charge \$45.00

Other charges are listed under My Plan Details.

Regular Minutes 400

Anytime and daytime.

Additional Minute Charge \$0.39

Night & Weekend Minutes 1000

Mobile to Mobile Minutes 0

Roaming Charges per Minute \$0.39

## MY EQUIPMENT

My Phone: Nokia 6340i \$69.99

My Accessory: NOKIA VEHICLE POWER CHARGER \$24.99

**TOTAL \$94.98**

My new Nokia 6340i allows me to send and receive text messages, browse the world wide web, and dial my phone just by saying someone's name.

## OTHER IMPORTANT INFO

- 411 calls - \$1.29 per call plus airtime.
- Airtime minutes apply for calls made to toll free numbers (800,866,etc.), incoming calls, outgoing calls, voicemail retrieval, and long distance calls.
- Service Cancellation Policy - Cancel your service within 15 days from date of purchase. No early termination fee will be charged. All other charges apply.
- Early Termination Fee – An Early Termination Fee in the amount of \$150 will be charged in the event that you terminate this contract before the expiration of its term.

## MY PLAN

My Rate Plan: FT NGAIT 400R 1KNW

### My Features Include:

BASIC VOICE MAIL	INCLUDED
CALL FORWARDING	INCLUDED
CALLER ID	INCLUDED
TEXT MESSAGING	INCLUDED
1000 NIGHTS AND WEEKENDS MINUTES	INCLUDED
ROLLOVER MINUTES	INCLUDED
WIRELESS INTERNET EXPRESS	INCLUDED
DATA CALL PACKAGE	INCLUDED
3-WAY CALLING	INCLUDED
CALL HOLD	INCLUDED
DETAILED BILLING - DATA	INCLUDED
CALL WAITING	INCLUDED
CUSTOM CALL PACKAGE	INCLUDED

# The Calling Plan That Fits You Best, Jack Cingular

## PLAN DETAIL DESCRIPTIONS

**CALLING AREA COVERAGE** - As with all wireless carriers, we cannot guarantee coverage because of things that can affect it: terrain, weather, foliage, construction and other factors.

**BASIC VOICE MAIL** - Even when you can't get to the phone, you won't miss a call.

- Callers can leave a message for you.
- Retrieve the message when you want.

**ROAMING** - Usage associated with calls you make or receive outside of your calling plan coverage area or on other carriers systems.

- Charge of up to \$ 0.79 per minute (Exceptions may apply).

**CALL FORWARDING** - Forward your incoming calls to another phone number.

- \$0.10 a minute plus airtime and any applicable long distance/roaming charges.

**AUTO PAY** - Save time and money. Pay your bill automatically by checking account or credit card. It's free.

- Debited from your account each month.
- Receive a free statement.
- Setup online ([www.cingular.com](http://www.cingular.com)) or call 1-800-331-0500.

**CALLER ID** - The number of the person calling you is flashed on the screen of your phone.

**TEXT MESSAGING** - Exchange text messages with Cingular and other wireless carrier customers via e-mail or phone. Instant message using AOL® Instant Messenger™ or Yahoo! Messenger™. Set up info alerts to get the latest weather, sports scores, news headlines and more.

**PAPERLESS BILLING** - Save time and gain access to your bill sooner by changing your monthly bill to paperless. Go online at [www.cingular.com](http://www.cingular.com). Within My Profile section, select Edit under Suppress Paper Bill.

**1000 NIGHTS AND WEEKENDS MINUTES** - Can be used in your calling plan area only.

- Monday through Friday 9:00 pm to 7:00 am.
- Saturday and Sunday 24 hours a day through 7:00 am Monday morning.
- Minutes do not count against Anytime Minutes.

**MANAGE MY ACCOUNT** - Personalized information on your account via [www.cingular.com](http://www.cingular.com) or 1-800-331-0500.

**CHANGE MY CALLING PLAN** - Change your Calling Plan at any time (may require a new Wireless Service agreement).

- Call 1-800-331-0500, go online ([www.cingular.com](http://www.cingular.com)), or visit your nearest Cingular Wireless store.

**NATIONWIDE LONG DISTANCE** - Calls can be made to anywhere in the 50 states when made from your Calling Plan Area.

- Rates for international long distance calls vary and are not included in the plan.

**WIRELESS INTERNET EXPRESS** - Your wireless phone is your personal link to the wireless Internet. Check flight times, stock quotes, news headlines, weather reports, personal e-mail and more. You're only charged for the data you send and receive, not the amount of time you spend connected. Plus, you can receive calls without losing your web connection. (Text Messaging feature required).

Some of these services may not be available with your plan or you may not have activated these services.  
Please check online at [www.Cingular.com](http://www.Cingular.com) for more information.

# The Calling Plan That Fits You Best, Jack Cingular

## PLAN DETAIL DESCRIPTIONS

**ROLLOVER MINUTES** - Unused Anytime Minutes at the end of each month.

- Minutes will roll over for 12 months.
- Oldest Rollover Minutes will always be used first to ensure all new Rollover Minutes have a full 12 months before expiring.
- Rollover Minutes will appear on your next month's bill.
- Rollover Minutes will not accrue until you begin your first full month's billing cycle (generally 30 days).
- Minutes are not redeemable for cash or credit and are not transferable.
- Minutes expire if you change to a non-Rollover Plan.

## ADDITIONAL SERVICES AVAILABLE

**ENHANCED VOICEMAIL** - Access your voice mail messages from any touch-tone phone.

- Even when you're away from your phone you'll never miss a call.

**FASTFORWARD SERVICE** - Save your wireless calling minutes with FastForward. Forward your calls from your wireless phone to your local home or office phone without deducting from your wireless pool of minutes.

**\* SERVICES** - \* Services allows you to easily access your account information from your phone.

- FREE 24 hours a day, 7 days a week.
- By dialing a few numbers, with \*Services, you can:
- Check your outstanding balance (\*BAL#).
- Check your minutes (\*MIN#).
- Pay your bill (\*PAY).

**ROADSIDE ASSISTANCE** - 24-hour assistance that facilitates fast, efficient service from qualified professionals.

- Towing Service
- Battery Service/Jump Start
- Flat Tire Assistance
- Fuel Delivery Service (up to three gallons)
- Lock-out Assistance
- Key Replacement
- Just dial #HELP (#4357) from your cell phone for assistance.

**WIRELESS HANDSET INSURANCE** - Replace or repair your wireless phone at minimal cost.

- Covers theft, loss and damage (exceptions may apply).

**CINGULAR BASICS** - Combines several of Cingular's most popular services for added savings and convenience.

**VOICE CONNECT** - Two great services in one! You get both voice activated dialing and information services for only \$4.99/month.

- Dial a friend simply by saying their name (e.g. "Call Jack").
- Get info, like news and weather, simply by saying a topic (e.g. "Go to weather").

**MULTIMEDIA MESSAGING** - With Multimedia Messaging you can combine photos, text, graphics and sound (voice and music) in one message and send to a mobile number or e-mail address.

**MOBILE TO MOBILE MINUTES** - Calls to and from other local Cingular customers in your mobile to mobile calling area.

- Mobile to Mobile Minutes do not roll over. (Exceptions may apply).

Some of these services may not be available with your plan or you may not have activated these services.  
Please check online at [www.Cingular.com](http://www.Cingular.com) for more information.

# Coverage Map(s)

## MY VOICE CALLING AREA

-  **Cingular Nation**  
(with a Multi-Network handset)  
• Anytime Minutes apply.
-  **No Service Area**



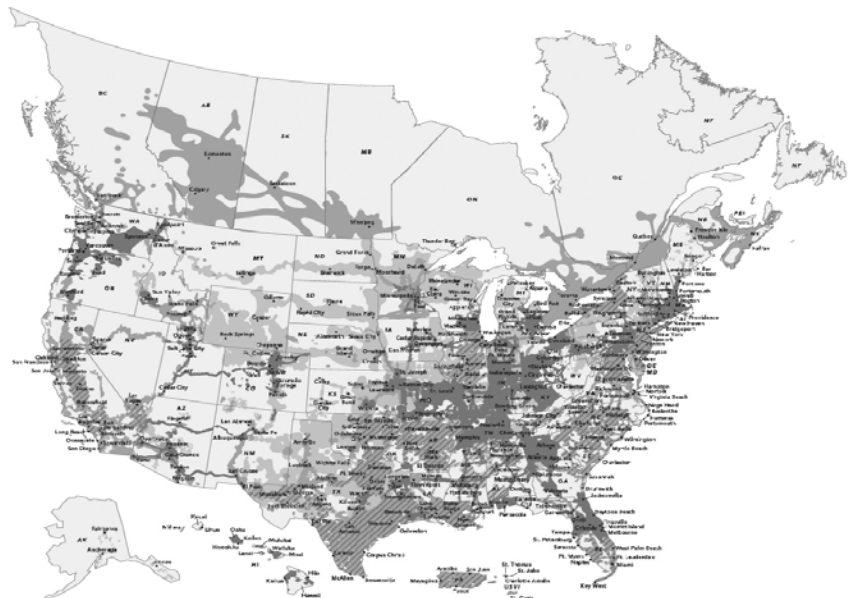
**Cingular Wireless GAIT handset required on Cingular Nation plans.**

Your phone's display does not indicate the rate you will be charged. Please review your coverage map for areas included in and out of plan. Map depicts an approximation of outdoor coverage. Map may include areas served by unaffiliated carriers and may depict their licensed area rather than an approximation of the coverage there. Actual coverage area may differ substantially from map graphics, and coverage may be affected by such things as terrain, weather, foliage, buildings and other construction, signal strength, customer equipment and other factors. Cingular does not guarantee coverage. Charges will be based on the location of the site receiving and transmitting the call, not the location of the subscriber. Future Coverage, if depicted above, is based on current planning assumptions but is subject to change and may not be relied upon.

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## MY DATA COVERAGE AREA

-  **EDGE/GPRS Coverage**
-  **GPRS Coverage**
-  **Future EDGE Coverage**
-  **Future GPRS Coverage**
-  **No Service Area**



Your phone's display does not indicate the rate you will be charged. Please review your coverage map for areas included in and out of plan. Map depicts an approximation of outdoor coverage. Map may include areas served by unaffiliated carriers and may depict their licensed area rather than an approximation of the coverage there. Actual coverage area may differ substantially from map graphics, and coverage may be affected by such things as terrain, weather, foliage, buildings and other construction, signal strength, customer equipment and other factors. Cingular does not guarantee coverage. Charges will be based on the location of the site receiving and transmitting the call, not the location of the subscriber. Future coverage, if depicted above, is based on current planning assumptions but is subject to change and may not be relied upon.

80003-EN-1

# Understanding Your First Bill

It may be a little higher than you expected, but don't worry. First bills often include not only your regular monthly rate (billed one month in advance), but taxes, an activation charge, plus minutes used beyond plan minutes. The first bill Rate Plan charges and optional services include pro-rated estimates of 7 days plus your first full month. Below is an example of charges that will appear only on your first bill as well as taxes and other charges that will appear on your first as well as subsequent bills. *The estimates below are based on the highest tax/fee/surcharge rates assessed in your state. Your actual taxes/fees/surcharges may be less.*

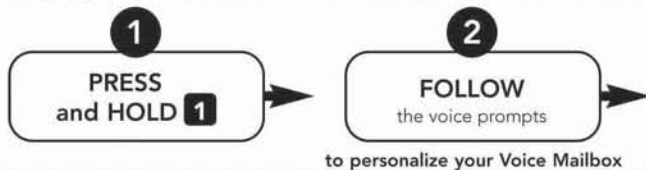
Wireless Summary For: Jack Cingular		(404) 555-1212
Monthly Service Charges		Regular Bill
Rate Plan:		First Bill
FT NGAIT 400R 1KNW		\$55.50
Optional Services		
BASIC VOICE MAIL		Included
CALL FORWARDING		Included
CALLER ID		Included
TEXT MESSAGING		Included
1000 NIGHTS AND WEEKENDS MINUTES		Included
ROLLOVER MINUTES		Included
WIRELESS INTERNET EXPRESS		Included
DATA CALL PACKAGE		Included
3-WAY CALLING		Included
CALL HOLD		Included
DETAILED BILLING - DATA		Included
Total Monthly Service Charge		\$55.50
Usage Charges		
Additional Minute Charge		BASED ON ACTUAL
Roaming Charge		
Directory Assistance		
Long Distance Charge		
Total Usage Charges		
Credits, Adjustments & Other Charges		
Activation Charge		\$18.00
Shipping & Handling		\$0.00
Equipment Charge		\$69.99
Regulatory Cost Recovery Fee		\$1.74
Federal Universal Fund		\$1.37
State Universal Service Fund		\$0.00
State Gross Receipts		\$0.00
Total Credits, Adjustments & Other Charges		\$91.10
Taxes		
Federal Excise Tax		\$1.66
State & Local Tax		\$4.44
911 Fee		\$0.00
Total Taxes		\$6.10
Total Charges For: (404) 555-1212		\$152.70

Cingular also imposes the following charges: a Regulatory Cost Recovery Fee of up to \$1.25 to help defray its costs incurred in complying with obligations and charges imposed by State and Federal telecom regulation, a gross receipts surcharge, and State and Federal Universal Service charges. The Regulatory Cost Recovery Fee is not a tax or a government required charge. Not intended to modify the rate plan brochure or your contract. Please defer to your rate plan brochure/contract if any inconsistencies between this document and your rate plan brochure/contract should appear. Cingular and the graphic icon are registered trademarks of Cingular Wireless LLC. Fits You Best and Rollover Minutes are Service Marks of Cingular Wireless LLC. © 2004 Cingular Wireless LLC. All rights reserved.

# Instructions For Setting Up Voice Mail

## Voice Mail Instructions

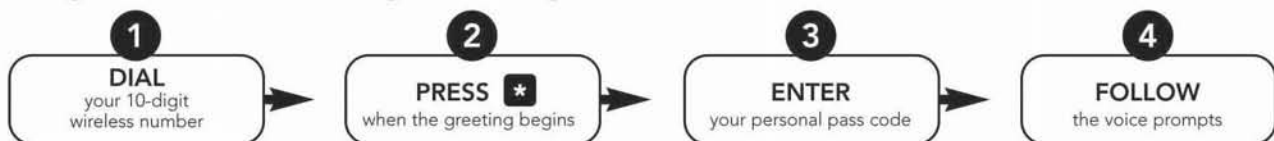
Setting Up Your Voice Mailbox From Your Mobile Phone



### Checking Your Voice Mail Message From Your Mobile Phone



### Checking Your Voice Mail Messages From Any Phone Other Than Your Mobile Phone



**What if I forget my pass code?** Simply call 1-866-CINGULAR (1-866-246-4852) to reset your pass code.

For more information on Voice Mail and other great features and products, please visit our website at:

[www.cingular.com](http://www.cingular.com)

Additional information or questions concerning Voice Mail may be directed towards Customer Service at 611 (press voice mail option), a FREE call from your wireless phone, or call 1-866-CINGULAR (1-866-246-4852).

For Deaf/hard of hearing customers: (TTY) 1-866-241-6567

Questions on accessibility by persons with disabilities: 1-866-241-6568.



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78053

GA, TN, KY, SFL, NC, SC, PA, NJ, DE,  
NY, MA, CT, RI, TX, OK, AR, KS,  
MO, OH, MI, WI, IL, IN, MD, LA

© 2004 Cingular Wireless LLC.



# Wireless Service Agreement

## Rate Plan Terms And Conditions

### Terms Applicable to Cingular Nation Plans:

**Terms Applicable to Cingular Nation Plans:** Wireless service is subject to credit approval. Unless terminated in the first 15 days of service, an early termination fee of \$240 prorated over the length of the service agreement in FL, GA, SC, NY, NC, AL, KY, TN, MS, LA and parts of IN and NJ. \$150 early termination fee applies in all other Cingular markets. Minutes used will be counted against minutes included in the plan (as applicable depending on the type of plan and time of the call) in the following order: night and weekend minutes, mobile to mobile minutes, anytime minutes and rollover minutes. Airtime and other measured usage are billed in full-minute increments, and actual airtime and usage are rounded up to the next full increment at the end of each call for billing purposes. Cingular Wireless charges a full-minute increment of usage for every fraction of the last minute used on each wireless call. Calls placed on networks served by other carriers may take longer to be processed, and billing for these calls may be delayed. Those minutes will be applied against your anytime monthly minutes in the month in which the calls appear on your bill. Unanswered calls of 30 seconds or longer incur airtime. Last month's charges are not prorated. Prices are subject to change. \$36 Activation Fee for new lines. Cingular does not guarantee availability of the network. Nights are 9:00 p.m. to 7:00 a.m. Weekends are 9:00 p.m. Friday to 7:00 a.m. Monday. Included long distance applies to calls within the 50 United States, Puerto Rico and the Virgin Islands. International long-distance rates vary. Cingular reserves the right to terminate your service if less than 50% of your usage over three consecutive billing cycles is on Cingular-owned systems. Customer must (1) use a Multi-Network (GAIT) phone programmed with Cingular Wireless' preferred roaming database; (2) have a mailing address and live in the Home Area in which subscription is made. No additional roaming charges for calls originating within the 50 United States when on the Cingular Nation GAIT Network. Once anytime minutes are depleted, calls, when on the Cingular Nation GAIT Network, will be billed as shown on the calling plan chart. These plans are not eligible for promotional discounts or add-on anytime minutes. Your billing name may be displayed along with your wireless number on outbound calls to other wireless and landline phones with Caller ID capability. Contact customer service for information on blocking the display of your name and number. In the event that the conditions of the Plan as described above are violated, Cingular may move subscriber to another calling plan or terminate customer's service. See Wireless Service Agreement for additional conditions and restrictions.

**Rollover Minutes:** Rollover Minutes apply to Cingular Nation Plans \$45 and higher. Unused anytime minutes expire: (1) after twelve months; (2) immediately upon default or if customer changes rate plans to a non-rollover plan. Rolled over minutes are not redeemable for cash or credit and are not transferable. Minutes will not roll over until after the first month's billing. Night and Weekend and Mobile to Mobile Minutes do not roll over.

**Mobile to Mobile Minutes** may be used when directly dialing any other Cingular phone number from within your calling area. Mobile to Mobile requires that Caller ID be passed to the incoming phone (some systems do not pass Caller ID). If Caller ID is not present on inbound calls, Mobile to Mobile does not apply.

**Voice Connect:** Regular airtime charges apply. Calls to 911, 411, 611, 711 and international dialing cannot be completed with Voice Connect Services. Caller ID cannot be blocked. Caller ID will be delivered on all calls, even if you have permanently blocked your name and number. Voice Connect Services provided by BeVocal. To terminate Voice Connect Services without incurring charges, dial 611 from your wireless phone within the 30-day trial period.

### Terms Applicable to Features:

**Terms Applicable to Features:** Certain features will not be available in all areas at all times. See applicable brochure or visit [www.cingular.com](http://www.cingular.com) for terms applicable to features including Voice Mail, Enhanced Voice Mail, Roadside Assistance Service provided by Asurion (see Roadside Assistance welcome letter and/or brochures for full terms and conditions), Wireless Phone Insurance (Program underwritten by Continental Casualty Company, a CNA Company (CNA), and administered by lockline, LLC. lockline, LLC is a licensed agent of CNA.), Text Messaging, Directory Assistance, FamilyTalk, My Wireless Window<sup>SM</sup> and Wireless Internet Express. Regular per-minute airtime rates and other charges apply for calls when included features are used. See [mywirelesswindow.com](http://mywirelesswindow.com) for terms applicable to Cingular DirectBill. For complete terms and conditions of Wireless Phone Insurance, please refer to the insurance coverage certificate or contact lockline<sup>®</sup> at 1-888-562-8662. © 2004 lockline, LLC. Cingular and the graphic icon are Registered Trademarks of Cingular Wireless, LLC. Fits You Best is a Service Mark of Cingular Wireless, LLC. © 2004 Cingular Wireless, LLC. All rights reserved.



# Wireless Service Agreement

## Rate Plan Terms And Conditions

### Terms Applicable to Cingular Wireless Data Service GPRS Plans:

#### TERMS APPLICABLE TO CINGULAR WIRELESS DATA SERVICE

Wireless service is subject to credit approval. Early termination fee of \$240 prorated over the length of the service agreement applies to subscriptions in the following states: FL, GA, SC, NC, AL, KY, TN, LA, NY and parts of IN and NJ. A non-prorated \$150 early termination fee applies in all other Cingular areas. Prices are subject to change. \$36 Activation Fee for new lines. Cingular does not guarantee availability of network. Display on your device will not indicate whether you will incur roaming charges. Certain other conditions and restrictions apply.

**Data Services:** Wireless Internet, Wireless Internet Express, and Data Connect services ("Services") may not be available with prepaid rate plans. Services require approved, compatible wireless data device. Services may be subject to certain equipment and service limitations including memory, storage, network, coverage, accessibility, or data conversion limitations. Services are only available in select Cingular Wireless service areas. Wireless Internet Express and Data Connect are currently only available when on select Cingular GSM systems. Contact Customer Service or see [www.mywirelesswindow.com](http://www.mywirelesswindow.com) for Service availability in your area. Applicable measured usage will be charged as specified in your plan. Rates and service are subject to change at any time. Cingular is not responsible for loss or disclosure of any sensitive information you transmit.

**Wireless Internet/Wireless Internet Express/Data Connect:** Wireless Internet/Wireless Internet Express/Data Connect are not equivalent to landline Internet. Use of the wireless Internet while roaming is dependent on coverage and the roaming carrier's support of GSM Circuit-Switched Data (Wireless Internet/Data Connect) or GPRS/EDGE (Wireless Internet Express/Data Connect) service. Roaming charges, including applicable kilobyte and/or per-minute airtime charges, will be imposed where roaming service is available. Caller ID blocking is not available when using Wireless Internet or Wireless Internet Express or Data Connect, and your wireless number is transmitted to Internet sites you visit. You may receive unsolicited messages from third parties as a result of visiting Internet sites, and a per-message charge may apply whether the message is read or unread, solicited or unsolicited. Cingular Wireless provides connectivity for access to the Wireless Internet, Wireless Internet Express, and Data Connect services. Information is provided by unaffiliated content providers who are subject to change at any time without notice. Cingular is not a publisher of third-party content, and is not responsible for any opinions, advice, statements, other information, services or goods provided by third parties. Third-party content providers may impose additional charges.

Wireless Internet, Wireless Internet Express, and Data Connect sessions may only be conducted for the following purposes: (i) Internet browsing; (ii) e-mail; and (iii) corporate intranet access (including access to corporate e-mail, customer relationship management, sales force automation, and field service automation applications). Wireless Internet, Wireless Internet Express, and Data Connect service plans cannot be used with server devices or host computer applications. Prohibited uses include, but are not limited to: telemetry applications, automated data feeds, continuous jpeg file transfers, web camera posts or broadcasts, other machine-to-machine applications, and voice over IP. These plans are not intended to provide full-time connections, and the Service may be discontinued after a significant period of inactivity or after sessions of excessive usage.

The accuracy, appropriateness, content, completeness, timeliness, usefulness, security, safety, transmission or correct sequencing of any information or downloaded data is not guaranteed by Cingular Wireless or any content providers. Wireless Internet and Data Connect GSM: Usage and overage charges for Wireless Internet and Data Connect services are billed as provided in your rate plan. Usage includes all time spent while you are connected to the Wireless Internet and Data Connect. Airtime and other measured usage are billed in full-minute increments, and actual airtime and usage are rounded up to the next full increment at the end of each call for billing purposes. Cingular Wireless charges a full-minute increment of usage for every fraction of the last minute used on each wireless call. Wireless Internet Express and Data Connect: Wireless Internet Express and Data Connect GPRS/EDGE services are billed both monthly and for total volume of data sent and received (in kilobytes or megabytes). Fractions of a kilobyte per Wireless Internet Express and Data Connect session are rounded up to whole kilobytes. Kilobyte totals may include network overhead. If you switch your wireless device connection from a GPRS/EDGE to a GSM Circuit-Switched Data connection, you will be billed airtime in one-minute increments as provided by your rate plan. Anytime minutes are debited for GSM Circuit-Switched Data connections. Night and weekend minutes may not be used for GSM Circuit-Switched Data connections. General: All trademarks, service marks, and trade names used on the Services are the property of their respective owners. Trademarked and copyrighted material may not be copied, downloaded, or otherwise exploited without the permission of the owner of such mark. Use of the Services is subject to Terms and Conditions of your Wireless Service Agreement. Use of Desktop Toolbar requires compatible home computer products. You may not send solicitations to Cingular subscribers without their consent. You may not use the Services other than as intended by Cingular Wireless and applicable law. Cingular reserves the right to terminate your Services with or without cause. Prices do not include taxes, directory assistance, roaming, universal services fees or other exactions. Services originated or received while outside your Cingular Home Calling Area are subject to roaming charges. See Wireless Service Agreement for additional conditions and restrictions. Certain features will not be available in all areas at all times. Regular rates and other charges apply when included features are used. Visit [www.cingular.com](http://www.cingular.com) for terms and additional information. See [mywirelesswindow.com](http://mywirelesswindow.com) for terms applicable to Cingular DirectBill. Cingular Wireless Privacy Policy can be reviewed online at [www.cingular.com](http://www.cingular.com). © 2004 Cingular Wireless, LLC.

04/30/2004	Market/Region <b>Nashville Telesales Center/</b>
(404) 555-1212	Zip Code <b>12345</b>

CUSTOMER BILLING INFORMATION		
Billing Name <b>Jack Cingular</b>		
Attention Line <b>Jack Cingular</b>		
Address 1 <b>123 Cingular Way</b>		
Address 2		
City <b>Atlanta</b>	State <b>GA</b>	Zip Code <b>12345</b>
Home Number <b>(123) 456-7890</b>	Work Number <b>(123) 456-7890</b>	

SERVICE COMMITMENT
<b>2 Years</b>
At the end of the Service Commitment, this Agreement will stay in force pursuant to the Terms & Conditions of this Wireless Service Agreement.

MONTHLY PLAN & PROMOTION	
Calling Plan <b>FT NGAIT 400R 1KNW</b>	Monthly Service Fee <b>\$45.00</b>

NON RECURRING CHARGES		
Activation Charge <b>\$18.00</b>	Shipping/Handling <b>\$0.00</b>	Equipment Charges <b>\$94.98</b>

Optional Features/Calling Plan Options	
✓ <b>BASIC VOICE MAIL</b>	Included
✓ <b>CALL FORWARDING</b>	Included
✓ <b>CALLER ID</b>	Included
✓ <b>TEXT MESSAGING</b>	Included
✓ <b>1000 NIGHTS AND WEEKENDS MINU</b>	Included
✓ <b>ROLLOVER MINUTES</b>	Included
✓ <b>WIRELESS INTERNET EXPRESS</b>	Included
✓ <b>DATA CALL PACKAGE</b>	Included
✓ <b>3-WAY CALLING</b>	Included
✓ <b>CALL HOLD</b>	Included
✓ <b>DETAILED BILLING - DATA</b>	Included

NETWORK REPLACEMENT NOTICE - Cingular Wireless is replacing its existing wireless technology with the Global System for Mobile Communications (GSM). We may upgrade the system in your area sometime in the next 12 to 24 months. When we do, it may be necessary to replace your existing phone. We will be presenting you with various options as the time to convert approaches. (applicable within certain areas in FL, LA, MS, AL and GA).

CREDIT CHECK CONSENT AND REPORTING AUTHORIZATION - I authorize any person, or consumer or credit reporting agency, to provide Cingular with any information it has on me or the entity on whose behalf I make this application. I authorize Cingular to: (a) compile this information, (b) disclose my account information including my payment history and confidential information to credit reporting agencies or private credit reporting associations, and (c) periodically obtain and use my credit report and other credit information from any source in connection with Cingular's offering of wireless and other services. I understand that if I fail to fulfill the terms of my credit obligations under this Agreement, Cingular may report my failure to a credit reporting agency.

DOOR-TO-DOOR SALE - If this is a door-to-door sale, I may have the legal right to cancel this transaction before midnight of the third business day after the date of the transaction. If applicable, I will review the associated notice of cancellation form and explanation of this right.

REGULATORY COST RECOVERY FEE - Cingular also imposes the following charges: a Regulatory Cost Recovery Fee of up to \$1.25 to help defray its costs incurred in complying with obligations and charges imposed by State and Federal telecom regulation, a gross receipts surcharge, and State and Federal Universal Service charges. The Regulatory Cost Recovery Fee is not a tax or a government required charge.

GUARANTY - If I am signing on behalf of an entity, I agree to be jointly responsible with the entity for payments of any sums that become due under this Agreement. I agree you can collect directly from me without first proceeding against the entity.

CONTRACT PROVISIONS - This Agreement includes all the provisions of Cingular's terms of service form number (FMSTCP09030039E) incorporated herein by reference, including a binding arbitration clause. It also includes and incorporates additional provisions contained in a separate rate plan or other brochure(s) describing the services to which I subscribed ("Calling Plan Brochure"). I agree to all of these contract provisions. If I am signing on behalf of a corporation, partnership or other entity, I represent that I am authorized to sign on its behalf.

SERVICE/COVERAGE LIMITATIONS - Cingular does not guarantee service availability at all times in all places. Coverage maps are available at www.cingular.com and are subject to the additional limitations described there. There are gaps in coverage within the service areas shown on coverage maps, which, by their nature, are only approximations of actual coverage. I agree to accept Cingular's service with these limitations.

EARLY TERMINATION FEE - in FL, GA, SC, NC, KY, TN, MS, LA, AL, NY, and parts of IN and NJ an Early Termination Fee in the amount of \$240 prorated over the term of your commitment may be assessed against you in the event that you terminate this contract before the expiration of its terms. In all other areas, an Early Termination Fee of \$150 may be assessed against you in the event that you terminate this contract before the expiration of its term.

15 DAY CANCELLATION POLICY - As further set forth in this Agreement, we will cancel your service, for any reason and without imposing the Early Termination Fee, within fifteen (15) days of your signing this Agreement, PROVIDED, however, that if you cancel service you will remain responsible for service fees and charges incurred. If you exercise this option, it may be necessary for you to return handsets and associated accessories purchased in connection with your entry into this Agreement.

I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS AGREEMENT INCLUDING ALL CONTRACT PROVISIONS (including Changes to Terms and Rates, Limitation of Liability and Arbitration) AND THE PLAN PROVISIONS AND CONDITIONS. I AGREE TO BE BOUND THEREBY. If signing on behalf of an entity, I represent that I am a duly authorized representative of the entity shown under "Billing Name", and I have submitted this application in the capacity indicated as my "Title" thereunder. If I am representing a corporation, I acknowledge that the execution of this agreement has been authorized by all necessary corporate actions.

**CUSTOMER COPY**

*Do not return this contract. Retain for your records.*

## Wireless Service Agreement Rate Plan Terms & Conditions

"Cingular" or "we" "us" or "our" refers to Cingular Wireless LLC, acting on behalf of its FCC-licensed affiliates doing business as Cingular Wireless. "You" or "your" refers to the person or entity that is the customer of record. PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. This Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to you in the event of a dispute SERVICE COMMITMENT; EARLY TERMINATION FEE. Your Service Commitment begins on the day we activate your service. You have received certain benefits from us in exchange for any Service Commitment greater than one month. If we terminate your service for nonpayment or other default before the end of the Service Commitment, or if you terminate your service for any reason other than (a) in accordance with the 15-day cancellation policy; or (b) pursuant to a change of terms, conditions, or rates as set forth below, you agree to pay us, in addition to all other amounts owed, an Early Termination Fee in Florida, Georgia, South Carolina, North Carolina, Kentucky, Tennessee, Mississippi, Louisiana, Alabama, New York, Applicable Parts of Indiana, Applicable Parts of New Jersey in the amount of \$240 divided by the total number of months in your Service Commitment, then multiplied by the remaining months or parts of months in such Service Commitment, and in all other areas in the amount of \$150. ("Early Termination Fee"). The Early Termination Fee is not a penalty, but rather a charge to compensate us for your failure to satisfy the Service Commitment on which your calling plan is based. AFTER YOUR SERVICE COMMITMENT, THIS AGREEMENT SHALL AUTOMATICALLY RENEW ON A MONTH-TO-MONTH BASIS UNTIL EITHER PARTY GIVES NOTICE PURSUANT TO THE TERMINATION PROVISION BELOW. CHARGES AND DISPUTES. You are responsible for paying all charges for or resulting from services provided under this Agreement. You will receive monthly bills that are due in full as shown thereon. YOU MUST, WITHIN 100 DAYS OF THE DATE OF THE BILL, NOTIFY US IN WRITING AT THE ADDRESS AT CINGULAR WIRELESS, BILL DISPUTE, SUITE 1400, 5565 Glenridge Connector, P.O. BOX 16, ATLANTA, GA 30342 ("CINGULAR'S ADDRESS") OF ANY DISPUTE YOU HAVE WITH RESPECT TO THE BILL, INCLUDING ANY CHARGES ON THE BILL AND ANY SERVICE WE PROVIDED FOR WHICH YOU WERE BILLED, OR YOU WILL HAVE WAIVED YOUR RIGHT TO DISPUTE THE BILL OR SUCH SERVICES AND TO BRING, OR PARTICIPATE IN, ANY LEGAL ACTION RAISING ANY SUCH DISPUTE. Charges include, without limitation, airtime, roamer, recurring monthly service, activation, administrative, and late payment charges; network and other surcharges; optional feature charges; toll, collect call and directory assistance charges; any other charges or calls billed to your phone number; and applicable taxes and governmental fees, whether assessed directly upon you or upon Cingular. Cingular may add its own charges to those charged by third parties. Monthly service and certain other charges are billed one month in advance, and there is no proration of such charges if service is terminated on other than the last day of your billing cycle. You agree to pay for incoming and outgoing calls to and from your phone. AIRTIME AND OTHER MEASURED USAGE ("CHARGEABLE TIME") IS BILLED IN FULL MINUTE INCREMENTS, AND ACTUAL AIRTIME AND USAGE IS ROUNDED UP TO THE NEXT FULL MINUTE INCREMENT AT THE END OF EACH CALL FOR BILLING PURPOSES. CINGULAR CHARGES A FULL MINUTE OF AIRTIME USAGE FOR EVERY FRACTION OF THE LAST MINUTE OF AIRTIME USED ON EACH WIRELESS CALL. Roaming service is use of your Equipment outside the immediate local service area where you purchased your service. Airtime associated with roaming (and any applicable charges) appear on your bill after Cingular is notified by the carrier servicing the area in which roaming occurs. ROAMER CHARGES MAY APPEAR ON A BILL AFTER THE BILL FOR THE PERIOD IN WHICH THE ROAMING OCCURS AND MAY BE APPLIED AGAINST UNUSED MINUTES IN THE MONTH IN WHICH SUCH CHARGES APPEAR ON YOUR BILL. Chargeable Time begins for outgoing calls when you press SEND (or similar key) and for incoming calls when a signal connection from the caller is established with our facilities. Chargeable Time ends after you press END (or similar key), but not until your wireless telephone's signal of call disconnect is received by our facilities and the call disconnect signal has been confirmed. All outgoing calls for which we receive answer supervision or which have at least 30 seconds of Chargeable Time, including ring time, shall incur a minimum of one-minute airtime charge. Answer supervision is generally received when a call is answered; however, answer supervision may also be generated by voice mail systems, private branch exchanges, and interexchange switching equipment. Chargeable Time may include time for us to recognize that only one party has disconnected from the call, time to clear the channels in use, and ring time; however, there will be no charged time for unanswered incoming calls. Chargeable Time may also occur from other uses of our facilities, including by way of example, voice mail deposits and retrievals, and call transfers. Calls that begin in one rate period and end in another rate period may be billed in their entirety at the rates for the period in which the call began. If your wireless phone or other device ("Equipment") is lost or stolen, you will be responsible for all charges incurred on your phone number until you report the theft or loss and provide a police report number to us. After you report the theft or loss to us, you remain responsible for complying with your other obligations under this Agreement, including, but not limited to, payment of your monthly service fee. You also remain responsible for paying your monthly service fee if your service is suspended for nonpayment. We may require payment by money order, cashier's check or a similarly secure form of payment at our discretion. We will charge you (a) \$30.00, or (b) if less, the highest amount allowed by law, for any check or other instrument tendered by you and returned unpaid by a financial institution for any reason. You agree to reimburse us the fees of any collection agency, which may be based on a percentage at a maximum of 33% of the debt, and all costs and expenses, including reasonable attorneys fees, we incur in such collection efforts. CHANGES TO TERMS AND RATES We may change any terms, conditions, rates, fees, expenses, or charges regarding your service at any time. We will provide you with notice of such changes (other than changes to governmental fees, proportional charges for governmental mandates, roamer rates or administrative charges) either in your monthly bill or separately. You understand and agree that State and Federal Universal Service fees and other governmentally imposed fees, whether or not assessed directly upon you, may be increased based upon the government's or our calculations. IF WE INCREASE THE PRICE OF ANY OF THE SERVICES TO WHICH YOU SUBSCRIBE, AS SUCH PRICES ARE SET FORTH IN YOUR CALLING PLAN BROCHURE, OR IF WE MATERIALLY DECREASE THE GEOGRAPHICAL AREA IN WHICH YOUR AIRTIME RATE APPLIES (OTHER THAN A TEMPORARY DECREASE FOR REPAIRS OR MAINTENANCE), WE WILL DISCLOSE THE CHANGE AT LEAST ONE BILLING CYCLE IN ADVANCE AND YOU MAY TERMINATE THIS AGREEMENT, BY A WRITING SENT TO CINGULAR'S ADDRESS, WITHOUT PAYING AN EARLY TERMINATION FEE OR RETURNING OR PAYING FOR ANY PROMOTIONAL ITEMS, PROVIDED YOUR NOTICE OF TERMINATION IS DELIVERED TO US WITHIN THIRTY (30) DAYS AFTER THE FIRST BILL REFLECTING THE CHANGE. PHONE NUMBER. We will assign you a phone number for your service. We may change this number or assign it to another user in our discretion. In the event number portability becomes effective, your account must first be paid in full in order to request transfer of the number to another carrier. Unless specifically permitted by the terms of your Calling Plan Brochure, the phone number may be used by only one Equipment unit with a manufacturer-supplied, unique electronic serial number (ESN) or International Mobile Equipment Identifier (IMEI) that has not been altered. EQUIPMENT Your Equipment must be compatible with, and not interfere with, our service, and must comply with all applicable laws, rules and regulations. We may periodically program your Equipment remotely with system settings for roaming service and other features that cannot be changed manually. Equipment purchased for use on our network may not function on other networks. ADVANCE PAYMENTS AND/OR DEPOSITS We may require you to make deposits or advance payments for services, which we may offset against any unpaid balance on your account. Interest will not be paid on advance payments or deposits unless required by law. We may require additional advance payments or deposits if we determine that the initial payment was inadequate. Based on your creditworthiness as we determine it, we may establish a credit limit and restrict service or features. If your account balance goes beyond the limit we set for you, we may immediately interrupt or suspend service until your balance is brought below the limit. Any charges you incur in excess of your limit become immediately due. If you have more than one account with us, you must keep all accounts in good standing to maintain service. If one account is past due or over its limit, all accounts in your name are subject to interruption or termination and all other available collection remedies. LATE PAYMENT CHARGES You agree that CINGULAR will incur damages, which are difficult to calculate, if you fail to pay your bill by the due date. Therefore, for amounts not paid by the due date, CINGULAR may apply, and you agree to pay a late payment fee per month equal to \$5 or, if less, the highest amount allowed by law as liquidated damages and not as a penalty. Notwithstanding the foregoing, the following late

## Wireless Service Agreement Rate Plan Terms & Conditions

payment fees are charged in the identified areas: 1.5% of the balance carried forward to the next bill in CA, FL, GA, HI, ID, IN, KY, LA, MS, NC, NV, PR, SC, TN, TX, VI and WA; and the greater of \$4.95 or 1.5% of the balance carried forward in KS and MO. TERMINATION Either party may terminate this Agreement at any time after your Service Commitment ends with thirty (30) days notice to the other party. We may terminate this Agreement at any time without notice if we cease to provide service in your home service area. We may interrupt or terminate your service without notice for any conduct that we believe violates this Agreement or any terms and conditions of your Calling Plan, or if you behave in an abusive, derogatory or similarly unreasonable manner with any of our representatives, or if we discover that you are under-age, or if you fail to make all required payments when due or if we have reasonable cause to believe that your Equipment is being used for an unlawful purpose or in a way that may adversely affect our service, or if you provided inaccurate credit information or we believe your credit has deteriorated and you refuse to pay any requested advance payment or deposit. SERVICE LIMITATIONS; LIMITATION OF LIABILITY Service may be interrupted, delayed or otherwise limited for a variety of reasons, including environmental conditions, unavailability of radio frequency channels, system capacity, priority access by National Security and Emergency Preparedness personnel in the event of a disaster or emergency, coordination with other systems, equipment modifications and repairs, and problems with the facilities of interconnecting carriers. There are gaps in service within the service areas shown on coverage maps, which, by their nature, are only approximations of actual coverage. WE DO NOT GUARANTEE YOU UNINTERRUPTED SERVICE OR COVERAGE. WE CANNOT ASSURE YOU THAT IF YOU PLACE A 911 CALL YOU WILL BE FOUND. Airtime and other service charges apply to all calls, including involuntarily terminated calls. CINGULAR MAKES NO WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, OR PERFORMANCE REGARDING ANY SERVICES OR GOODS, AND IN NO EVENT SHALL CINGULAR BE LIABLE, WHETHER OR NOT DUE TO ITS OWN NEGLIGENCE, for any: (a) act or omission of a third party; (b) mistakes, omissions, interruptions, errors, failures to transmit, delays or defects in the service provided by or through us; (c) damage or injury caused by the use of service or Equipment, including use in a vehicle; (d) claim against you by third parties; (e) damage or injury caused by a suspension or termination of service by Cingular; or (f) damage or injury caused by failure or delay in connecting a call to 911 or any other emergency service. Notwithstanding the foregoing, if your service is interrupted for 24 or more continuous hours by a cause within our control, we will issue you, upon request, a credit equal to a pro-rata adjustment of the monthly service fee for the time period your service was unavailable, not to exceed the monthly service fee. Our liability to you for service failures is limited solely to the credit set forth above. Unless applicable law precludes parties from contracting to so limit liability, and provided such law does not discriminate against arbitration clauses, Cingular shall not be liable for any indirect, special, punitive, incidental or consequential losses or damages you or any third party may suffer by use of, or inability to use, service or Equipment provided by or through Cingular, including loss of business or goodwill, revenue or profits, or claims of personal injuries. To the full extent allowed by law, you hereby release, indemnify, and hold Cingular and its officers, directors, employees and agents harmless from and against any and all claims of any person or entity for damages of any nature arising in any way from or relating to, directly or indirectly, service provided by Cingular or any person's use thereof (including, but not limited to, vehicular damage and personal injury), INCLUDING CLAIMS ARISING IN WHOLE OR IN PART FROM THE ALLEGED NEGLIGENCE OF CINGULAR, or any violation by you of this Agreement. This obligation shall survive termination of your service with Cingular. Cingular is not liable to you for changes in operation, equipment or technology that cause your Equipment or software to be rendered obsolete or require modification. SOME STATES, INCLUDING THE STATE OF KANSAS, DO NOT ALLOW DISCLAIMERS OF IMPLIED WARRANTIES OR LIMITS ON REMEDIES FOR BREACH. THEREFORE, THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. VOICE MAIL SERVICE We may deactivate your voice mail service if you do not initialize it within a reasonable period after activation. We will reactivate the service upon your request. ARBITRATION Please read this carefully. It affects your rights. Cingular and you (such references include our respective subsidiaries, affiliates, predecessors in interest, successors and assigns) agree to arbitrate all disputes and claims arising out of or relating to this Agreement, or to any prior oral or written agreement for Equipment or services between Cingular and you. Notwithstanding the foregoing, either party may bring an individual action in small claims court. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Intent to Arbitrate ("Notice"). The Notice to Cingular should be addressed to: General Counsel, Cingular Wireless, 5565 Glenridge Connector, 20th Floor, Atlanta, GA 30342 ("Arbitration Notice Address"). The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). If we do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or Cingular may commence an arbitration proceeding. After Cingular receives notice at the Arbitration Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee. All issues are for the arbitrator to decide, including the scope of this arbitration clause, but the arbitrator is bound by the terms of this Agreement. The arbitration shall be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and shall be administered by the AAA. The AAA Rules are available at [www.adr.org](http://www.adr.org) or by writing to the Arbitration Notice Address. Except as otherwise provided for herein, Cingular will pay all AAA filing, administration and arbitrator fees. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is improper or not warranted, as measured by the standards set forth in Federal Rule of Civil Procedure 11(b), then the payment of all such fees shall be governed by the AAA Rules. In such case, you agree to reimburse Cingular for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. If the arbitrator grants relief to you that is equal to or greater than the value of your Demand, Cingular shall reimburse you for your reasonable attorneys' fees and expenses incurred for the arbitration. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees and expenses at any time during the proceeding and upon request from either party within 14 days of the arbitrator's ruling on the merits. You agree that, by entering into this Agreement, you and Cingular are waiving the right to a trial by jury. Unless Cingular and you agree otherwise, all hearings conducted as part of the arbitration shall take place in the county (or parish) of your billing address. The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. You and Cingular agree that YOU AND CINGULAR MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, and not as a plaintiff or class member in any purported class or representative proceeding. Further, you agree that the arbitrator may not consolidate proceedings or more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding, and that if this specific proviso is found to be unenforceable, then the entirety of this arbitration clause shall be null and void. Notwithstanding any provision in this Agreement to the contrary, we agree that if Cingular makes any change to this arbitration provision (other than a change to the Arbitration Notice Address) during your Service Commitment, you may reject any such change and require Cingular to adhere to the language in this provision. MISCELLANEOUS This Agreement, the signature or rate summary sheet, the terms included in the rate brochure(s) describing your plan and services, and any documents expressly referred to herein or therein, make up the complete agreement between you and Cingular, and supersede any and all prior agreements and understandings relating to the subject matter of this Agreement. If any provision of this Agreement is found to be unenforceable by a court or agency of competent jurisdiction, the remaining provisions will remain in full force and effect. Cingular may assign this Agreement, but you may not assign this Agreement without our prior written consent. The law of the state of your billing address shall govern this Agreement except to the extent that such law is preempted by or inconsistent with applicable federal law.

# Cingular Wireless Return Policy

If you do not accept the terms and conditions as outlined in the Wireless Service Agreement, the brochure describing your plan, and terms and conditions brochure, **call 1-800-349-9319 to get return instructions.** If you do not return your phone to Cingular Wireless within fifteen (15) days from the date you received your phone, you will be billed for the full retail price of the phone.

We promise to exchange or refund handsets and accessories purchased from Cingular Wireless within fifteen (15) days from the date of receipt. To receive a full refund, phones and accessories must be in like-new condition with no visible damage, including all components and paperwork. Cingular will waive early termination fees for all handsets returned up to fifteen (15) days from the date of purchase. Charges for the prorated access charge, long distance, roaming, activation fee, applicable taxes, surcharges, and any un-returned equipment may apply and you may be billed for these.

**Call 1-800-349-9319 to get return instructions. Return Date:** \_\_\_\_\_













Please complete the information below and check the item that best fits the reason for your return. The completion of this information will allow us to process your request as quickly as possible. Any applicable credits may take up to two bill cycles to appear on your bill, and you may receive a bill while any applicable credits are being processed to your account. Please keep a copy of your mobile number for your records.

**Customer Name:**

**Order Date:**

**Mobile Number:**

Please check the appropriate box for the reason this wireless phone is being returned.

<input type="checkbox"/> Delivered Late		<input type="checkbox"/> Phone Not As Described / Did Not Like Phone	
<input type="checkbox"/> Changed Mind / Not What I Thought I Ordered		<input type="checkbox"/> Poor Service / Unable To Place Or Receive Calls	
<input type="checkbox"/> Mis-Informed		<input type="checkbox"/> Rate Plan Does Not Meet Needs	
<input type="checkbox"/> Defective When Received		<input type="checkbox"/> Wrong Item Shipped	
<input type="checkbox"/> Did Not Order / Duplicate Orders Received		<input type="checkbox"/> Received A Better Deal	
<input type="checkbox"/> Damaged In Transit		<input type="checkbox"/> Too Expensive	

# Instructions For Smartchip Installation / Verification

Install the Smartchip according to the manufacturer's specifications. The diagrams below provide general instructions for installing a Smartchip.



**a.** Take the back cover off your new phone.



**b.** Remove the battery from the phone.



**c.** Punch out the Smartchip from the plastic card.



**d.** Line up beveled edge of Smartchip with slot in phone.



**e.** Replace the battery and make sure connectors from battery match up with the phone.



**f.** Put the cover back on the phone.

Thank You and  
Welcome!  
Jack Cingular





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